

(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~~ of DELAWARE
Town
~~Village~~

Local Law No. 1 of the year 19 96

A local law amending Article XI of the Town of Delaware Zoning Law adding Section 1115 thereto, providing for the appointment of ad hoc temporary members to the Zoning Board of Appeals of the Town of Delaware and superseding, in part, the provisions of Town Law Section 267(2).

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

~~County~~
~~City~~ of DELAWARE as follows:

SECTION 1

Authority

This local law is enacted pursuant to Municipal Home Rule Law §10(1)(d)(3) authorizing towns to adopt a local law which amends or supersedes any provision of the Town Law in relation to the property, affairs or government of the Town, or in relation to any of the other enumerated subject matters in such section of the Municipal Home Rule Law unless there is a state legislative restriction on such amendment or supercession.

SECTION 2

Purpose

In order to permit the Zoning Board of Appeals of the Town of Delaware to transact business in the event that absence due to conflicts of interest or other causes preclude a full membership of five members from considering a particular matter, it is deemed advantageous by the Town Board of the Town of Delaware to enact a local law superseding in part Town Law §267(2) to provide for the appointment of ad hoc members to the Zoning Board of Appeals.

SECTION 3

Amendment of Article XI of the Town of Delaware Zoning Law

Article XI of the Town of Delaware Zoning Law is hereby amended by adding thereto Section 1115, which shall read as follows:

"§1115. In the event that conflicts of interest or other causes result in the absence, disqualification or recusal of any regularly appointed member or members of the Board of Appeals, the Town Board shall appoint an ad hoc member or members in such number as shall be sufficient to constitute a full board of five members for the purpose of hearing and determining a specific appeal or application pending before the Board of Appeals from which the regularly appointed members have been absent, disqualified or recused. The term of any such ad hoc appointment shall expire concurrently with the making of a final determination by the Board of Appeals with respect to the appeal or application for which such ad hoc appointment was made. Once designated to serve on a particular matter pending before the Board of Appeals, the ad hoc member or members shall have the same powers and duties as regular members of the Board of

Appeals until that matter is concluded. Any determination by the Board of Appeals consisting of ad hoc members shall have the same weight and be entitled to the same authority as the act or deed of the regular Board of Appeals and all laws, statutes and regulations shall apply and be applied with equal force and effect. This paragraph shall supersede, in part, the application to the Town of Delaware of Town Law §267(2)."

SECTION 4

Effect of Invalidity

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

SECTION 5

Effective Date

This local law shall take effect immediately upon filing in the office of the Secretary of State.

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(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. 1 of 19 96 of the ~~(County)(City)(Town)(Village)~~ of Delaware was duly passed by the Town Board on 19 96, 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 19 of the (County)(City)(Town)(Village) of was duly passed by the on 19 , and was (approved)(not disapproved)(repassed after disapproval) by the and was deemed duly adopted on 19 , in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County)(City)(Town)(Village) of was duly passed by the on 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on 19 . 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 19 , in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

~~**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 19 of the (County)(City)(Town)(Village) of was duly passed by the on 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on 19 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 19 , in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)~~

*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 chairman 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 19____ 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 _____ 19____, 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 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, 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 of 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 1, above.

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
PAM WALKER, Town Clerk

(Seal)

Date: _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF SULLIVAN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature KENNETH C. KLEIN
Town Attorney

Title _____

~~XXXXXX~~
~~XXXX~~ of Delaware
Town _____
~~XXXXXX~~

Date: _____