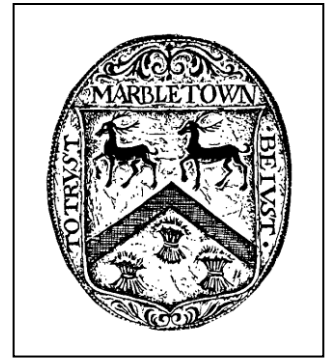


# Accessory Apartment Law Town of Marbletown

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The text of the proposed Local Law No. \_\_\_ of 2021 Accessory Apartment Law is intended to supercede and replace Local Law # 1 of 2019 as follows:

## **SECTION I. SHORT TITLE AND PURPOSE**

This Local Law is to be known as the **Local Law \_\_\_ of 2021 Accessory Apartment Law**. This Law amends the Zoning Law to revise and replace the existing provisions of the Town of Marbletown Code, as it applies to Accessory Apartments. It is the intent of the Town of Marbletown to expand upon and clarify provisions of Local Law # 1 of 2019. **The intent of this law and Local Law # 1 2019 was to allow for expanded opportunities through the creation and development of affordable housing, housing for local workers, young residents and to create housing opportunities that support the retention of senior residents who no longer require larger homes but wish to remain in the community.**

## **SECTION II. LEGISLATIVE FINDINGS**

The Town Board of the Town of Marbletown hereby adopts and makes the following findings:

1. The Town Zoning Law is in need of revision to ensure compliance with the policies and objectives of the Town Comprehensive Plan and other related plans proposed and adopted in recent years.

## **SECTION III. 2021 AMENDMENTS**

The Zoning Law of the Town of Marbletown shall be amended as follows:

### **Section A, Accessory Apartments**

The following sections of the Town of Marbletown Zoning Code shall be as follows:

1. §200-13. ACCESSORY APARTMENT– a dwelling unit, which contains cooking, sanitary and sleeping facilities, contains a minimum of 350 sq. ft. of habitable space as defined by the Property Maintenance Code 2015 of New York State, with a maximum of 900 sq. ft., contained within the primary residential structure or an approved detached structure.
2. §200-46.D.(15), Apartments accessory to the principal permitted residential use of the same parcel are permitted in all districts, except that they shall not be allowed in the I-1 District and a Special Use Permit shall be required in the S-R E and S-R N districts and in the event of exterior modification to the structure shall require a Certificate of Appropriateness permit.. It is the intent of this provision to expand affordable housing opportunities in the Town, particularly for small families and senior citizens, to allow more efficient use of residential and accessory structures, to provide expanded economic return to enable older homeowners to

maintain their home and to provide options for local workers, young and older families, live-in help or health providers.

a. Lot Area.

1. An Accessory Apartment located in the principal residence (a common foundation or connected to the principal structure) on the site and complying with the following standards shall be required to comply with the required minimum lot area of the zoning district in which it is located or be a pre-existing non-conforming lot and shall not require any additional lot area for the Accessory Apartment. Only one Accessory Apartment unit per property shall be eligible for such provision. Any additional dwelling units on the same property shall be subject to the provisions of §200-24.A.

2. An Accessory Apartment located in an approved detached structure, shall comply with the required minimum lot area of the zoning district in which it is located, or

- a. In the event, that the parcel is a pre-existing, non-conforming undersized lot with more than 50% of the area required under the existing zoning district, where the detached structure, is legally permitted and was in existence prior to the adoption of Local Law # 1 of 2019 the Accessory Apartment shall be allowed.
- b. In lots that are less than 50% of the area required, under the existing zoning district, the applicant may apply to the Zoning Board of Appeals for an area variance.
- c. This provision shall supersede Sect. 200-59 B.

3. Any detached structure where a new detached Accessory Apartment is proposed must meet the required setbacks for the Zoning District, in which, it is located or be granted an area variance.

b. Owner Occupancy. The owner of the property on which an Accessory Apartment is located shall maintain their primary domicile in either the principal residence or the Accessory Apartment on the subject property.

c. Building Permit / Certificate of Occupancy. An Accessory Apartment **will not be granted a building permit** where a current building violation exists, unless the legalization or creation of the Accessory Apartment will cure the violation.

d. Minimum Structure Size. **No accessory apartment shall be located in a one-family dwelling unless the dwelling contains the minimum required habitable floor area of 1,600 square feet. This shall apply to new or existing one-family dwellings.**

e. Maximum floor area- Accessory Apartment shall contain a minimum of 350 sq. ft, of habitable space as defined by the Property Maintenance Code 2015 Of New York State, with a maximum of 900 sq. feet.

f. Number of Accessory Apartments. There shall be no more than one Accessory Apartment per lot permitted under this subsection.

g. Exterior Appearance. Alterations to the principal residence to accommodate an Accessory Apartment shall be designed to retain its exterior appearance as a single family dwelling, as viewed from the street. No more than 100 square feet may be added to the exterior of the

principal structure to accommodate an Accessory Apartment. In a detached structure, the exterior of the structure shall retain a residential look from the street. Any structure that is locally landmarked by the historic commission and town board, must get a certificate of appropriateness from the historic commission for any exterior changes. An additional road cut for a new driveway is prohibited.

- h. Water and Sewer Service. of the provision of an adequate water supply and sewage disposal shall be provided as meeting the standards provided by the Ulster County Board of Health.
  - i. Off-street Parking. In no case shall there be less than three parking spaces provided on site.
  - j. Termination. If the homeowner vacates one of the dwelling units, or if the homeowner transfers title to the dwelling to a person other than a relative or domestic employee of the homeowner, the permit and the use of the accessory apartment as such shall be automatically terminated, unless renewed and the new owner will occupy the premises.
  - k. Minimum Term of Rental. Detached accessory apartments shall be rented for a period of no less than 30 days in duration. Owners shall be required to provide proof of rental agreement including the duration of the period upon submission of the Operating Permit to the Town of Marbletown. Fines for each violation shall be as follows: 1<sup>st</sup> time warning, second violation \$250.00 and \$500.00 for each subsequent violation
3. §200-8 Schedule of Use Regulations  
Accessory Apartments under Accessory Uses shall be modified to reflect their being Permitted in all districts except I-1 shall remain X and SR-E and SR -N shall be Permitted and Special Use Permit (SU) where exterior modification is required.
4. Accessory Apartments shall not be incorporated into the developed scheme within new subdivisions or planned developments unless such development proposal includes an affordable housing component that meets the Ulster County Fair Market Rent guidelines or the project is sponsored by a Housing Authority, RUPCO or complies with the annual maximum income levels established by to qualify for affordable housing. The affordable units shall remain affordable for a minimum of 10 years.
5. Accessory Apartment Operating Permit must be submitted annually to the Town of Marbletown Building Department.
6. All Accessory Apartments shall have an annual fire inspection.

#### **SECTION IV. AMNESTY**

Landowners for a period of 160 days from the date of Effectiveness of this local Law for all prior non-conforming and un-permitted Accessory Apartments may make application to the Town of Marbletown Building Department, without penalty, for the legalization of existing Accessory Apartments. All applications shall comply with the current law but applications will not be limited, restricted or included in the annual permit limitations.

**SECTION V. ANNUAL PERMIT LIMITATION**

Permits shall be issued on a first come first served basis but in no calendar year shall the Town of Marbletown issue more than Fifty (50) total permits for Accessory Apartments.

**SECTION VI. SEVERABILITY**

The invalidity of any provision of this Local Law shall not affect the validity of any portion of this Local Law which can be given effect without such invalid provision.

**SECTION VII, EFFECTIVENESS**

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

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