

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 MARBLETOWN

FILED
STATE RECORDS

JAN 8 1 2022

DEPARTMENT OF STATE

Local Law No. 1 of the year 2022

A local law THE MARBLETOWN FENCE LAW
(Insert Title)

Be it enacted by the TOWN BOARD OF THE TOWN OF MARBLETOWN of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of MARBLETOWN as follows:

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

Local Law No. 1 of 2022

Fence Law Town of Marbletown



SECTION I. SHORT TITLE AND PURPOSE

This Local Law is to be known as the **Local Law 1 of 2022 The Marbletown Fence Law**. This Law amends the Town Code and Zoning Law to include provisions to regulate the installation and construction of fences, berms or other forms of obstruction of views. As development pressures have increased and fences have been erected throughout the town in an unregulated nature the Town Board has chosen to adopt regulations controlling the proliferation of fences in an attempt to preserve the scenic and historic qualities of 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.
2. The Town of Marbletown has significant historic and scenic properties, aesthetic and visual qualities of the rural character, as well as the general visual quality of the Town needs to be preserved.
3. Fences, gates and walls and other non-naturally occurring view obstructions need to be installed and constructed in a safe and orderly manner so as to protect the health, safety and general welfare of the community.

SECTION III. DEFINITIONS

Fence: Is a structure erected for the purpose of enclosing, screening or separating all or a portion of a parcel(s) of land. A fence shall include construction materials wood, steel, brick, stone or similar materials, but shall not include natural or cultivated plant material or vegetation.

SECTION IV. REQUIREMENTS

- A. Fences, gates and walls shall require a Building Permit and shall be a permitted use, not exceed **eight (8) feet** in height, when erected in a required side or rear yard nor exceed **four feet** in height when erected within **twenty-five (25) feet** of the front lot line, on a corner lot, or lot that has more than one boundary line on or adjacent to a town, county or state road or right-of-way. Except where accessory to agriculture, forestry uses, and or listed in specific fencing requirements **Section L**. Any fencing which exceeds the **above specified heights restrictions**, or which in the front yard consists of a solid fence or wall, that does not allow for the passage of views shall be subject to the issuance of an Variance by the Zoning Board of Appeals.

- B. All fences, gates and walls within the front lot line or highway right-of-way on a state-designated scenic road or byway, within a Town designated historic district, Town designated parcel of historic significance, or parcel on the National Historic Registry shall be subject to issuance of a Special Use Permit unless such fence is constructed as a **Split Rail or Picket Fence** that does not obstruct the view of the premises. A list of state-designated scenic roads and Town designated historic district(s), Town designated parcels of historic significance, or parcels listed on the National Historic Registry shall be made available by the Town Clerk at Town Hall. Fences within these areas may be located along sidewalks or lot lines but must be outside of the Highway Right of Way to allow proper maintenance of the road.
- C. All fences, gates and walls shall be installed or constructed on **corner lots** providing for sight clearance considerations **and shall meet the provisions of Sect. 200-35**, to protect traffic safety, the location and height shall be approved by the Town of Marbletown Highway Superintendent or Town of Marbletown Building Department prior to the issuance of a building permit.
- D. All fences, gates, and walls, including new stone walls, not provided for within section B above, shall be located on private property outside of the Right of Way and shall be a minimum set back at least 25 feet from the center line of the roadway/highway or 15 feet from the edge of the pavement or shoulder, whichever is greater, to allow sufficient room for wintertime snow removal.
- E. In any zoning district, all such fences, gates and walls shall have the face of the fence or wall directed toward the abutting property and, unless agreed to in writing by the abutting property owner, be located so as to permit maintenance of both sides of the fence without trespass on the abutting property.
- F. A berm shall be deemed to be, a part of, and included in the height calculation, for the fence, gate or wall within the meaning of this section if the berm is constructed to provide a property boundary delineation, protection or privacy to a property owner, unless the berm or landscape has been included as part of the Planning Board approval in accordance with either subdivision plat and/or site plan review and approval procedures.
- G. Permit required. Except in the case of qualified farm operations, prior to the installation of any fence, gate or wall, a fence permit is required. An application for such fence permit shall be filed with the Building Department, accompanied by both a fee payable to the Town of Marbletown in accordance with the current fee schedule and adequate supporting information regarding fence location, height, design and materials to demonstrate compliance with the requirements and standards set forth in this section. Except when an integral part of an overall site plan for development of a site, no fence, gate or wall that fully meets the requirements of this section shall require either special use permit or site plan approval in any zoning or overlay district. The Code Enforcement Officer / Building Department may, however, refer any application for fence permit to the Planning Board for review and recommendation prior to issuing the permit, if in their opinion a Special Use Permit is required.
- H. The installation of fences consisting of flexible plastic, vinyl mesh or any other nonrigid material and constructed in a manner without posts and supports of the type associated with permanent construction is prohibited in all districts. This type of material may be used as a siltation fence or

similar protective barrier employed and installed on a temporary basis if it is being used in conjunction with site development or construction work. This material shall be removed prior to the issuance of a certificate of compliance by the Building Department.

Natural burlap or black plastic or vinyl fence mesh fence employed on a seasonal basis to protect natural landscaping from snow, deer and other damage, is allowed and not considered to be a "fence" within the meaning of this law. The use of more visible color mesh, and other more durable materials are prohibited for this purpose.

- I. Barbed wire fence is prohibited. Except as may be needed for use with agricultural animals.
- J. Any fence, wall or gate erected or installed in accordance with this section shall be maintained in good order.
- K. The height of gates shall not exceed permitted fence heights, except that ornamental overhead architectural features, such as arches and trellises, shall be allowed provided that the feature's height shall not exceed 15 feet above ground level at the location of the gate.
- L. Permitted alternative installation guidelines for specific fencing requirements. Where property owners seek to install fencing exceeding the requirements below, a Variance from the Zoning Board of Appeals, -Agricultural district requirements, may supersede, however, upon the termination of the agricultural use the property owner may be required to remove the fencing by the Building Department.
 - (1) Tennis court enclosure. Chain link fence is permitted up to 10 feet in height.
 - (2) Swimming pool enclosure. Fence shall be constructed to comply with the requirements of the NYS Building and Fire Code or Property Maintenance Code.
 - (3) Vegetable garden enclosure. Chain link or open mesh fence is permitted up to eight feet in height in the front and side yard. No such fence shall enclose a residence or other principal building. A Special Use Permit shall be required if it is on a state-designated scenic road, within a Town designated historic district, Town designated parcel of historic significance, or parcel on the National Historic Registry
 - (4) Dog enclosure. Shall meet the setback requirements. Chain link or open mesh fence is permitted up to eight feet in height, in the front and side yard. Area enclosed must not exceed 20% of the property if one acre or less. If the property is more than one acre in size, the area enclosed must not exceed 10% of the property or 9,000 square feet, whichever is greater.
 - (5) Enclosure for fowl. Chain link or open mesh fence or cage is permitted up to eight feet in height, in the front and side yard, which fence must be at least 25 feet from any property line.
 - (6) Junk Yards see Section 132-11 of the Town Code.
 - (7) Emergency exceptions see Section 167-4 of the Town Code.
 - (8) Light Industrial District Regulations see Section 200-40 of the Town Code.

SECTION V. AMNESTY and FINES

Landowners who currently have erected fences shall be installed in compliance with this local law at the time that the fence is replaced or is in disrepair requiring substantial repair.

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.

(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 2022 of the ~~(County)(City)(Town)(Village)~~ of MARBLETOWN was duly passed by the TOWN BOARD on JANUARY 18 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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(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) (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.
(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 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.

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

Date: *January 28, 2022*

(Seal)



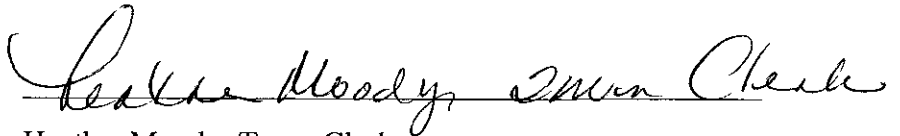
Effective Date of this Local Law

This Local Law shall be effective upon filing with the office of the Secretary of State, and the Town Clerk is directed to immediately file a copy of this Local Law with the New York State Secretary of State as required by law.

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2022 of the Town of Marbletown, was duly passed by the Town Board on January 18, 2022 in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and 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 above.

(Seal)



Heather Moody, Town Clerk

Date:

1/28/2022

STATE OF NEW YORK

COUNTY OF ULSTER



TOWN OF MARBLETOWN

A regular meeting of the Town Board of the Town of Marbletown operating under New York State Executive Order 202.1 was convened Via the phone and internet, New York on January 18, 2022, at 6:00 o'clock P.M. local time. The meeting was called to order by Supervisor Rich Parete, and, upon roll being called, the following were:

PRESENT: Rich Parete, Daisy Foote, Tim Hunt, Don LaFera and Ken Davenport

ABSENT:

The following Resolution was offered by Councilwoman Foote and seconded by Councilman Hunt.

RESOLUTION #25-2022 TO ADOPT LOCAL LAW # 1-2022; 'FENCE LAW'

WHEREAS, the Town Board of the Town of Marbletown held a public hearing on January 18, 2022 on Local Law Number 1 of 2022, known as the Fence Law for the Town of Marbletown; and

WHEREAS, the adoption of this Local Law Number 1 is an unlisted action pursuant to the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town Board has prepared and considered an Environmental Assessment Form which evaluates the potential environmental impacts of the proposed amendment; and

WHEREAS, the Board has determined that the adoption of this Local Law will not have a significant negative impact upon the environment; now therefore be it

RESOLVED, that a negative declaration is hereby made pursuant to the State Environmental Quality Review Act (SEQRA); and be it further

RESOLVED, said Local Law is hereby adopted as attached

NOW, THEREFORE BE IT RESOLVED, that by the actions of the Town Board of the Town of Marbletown this Local Law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Councilman Davenport	Voting <u>Aye</u>
Councilman Lafera	Voting <u>Aye</u>
Councilman Foote	Voting <u>Aye</u>
Councilman Hunt	Voting <u>Aye</u>
Supervisor Parete	Voting <u>Aye</u>

Resolution #25-2022 was thereupon adopted.
Heather Moody, Town Clerk/Tax Collector
Dated: January 18, 2022



TOWN OF MARBLETOWN

A regular meeting of the Town Board of the Town of Marbletown was convened in a public session of the Town Hall, 1925 Lucas Ave Cottekill, New York on December 21, 2021, at 6:00 o'clock P.M. local time. The meeting was called to order by Supervisor Rich Parete, and, upon roll being called, the following were:

PRESENT: Rich Parete, Daisy Foote and Eric Stewart, Tim Hunt and Don LaFera

ABSENT:

The following Resolution was offered by Councilman LaFera, seconded by Councilman Stewart:

RESOLUTION; 107-2021; SETTING THE PUBLIC HEARING DATE FOR THE PROPOSED LOCAL LAW NUMBER ____ OF 2022, A LOCAL LAW KNOWN AS FENCE LAW

WHEREAS, the Town Board finds it to be in the best interests of the residents of the Town of Marbletown to adopt **Local Law ____ of 2022, known as the Fence Law**, in order to achieve the purposes and objectives set forth in the Local law.

NOW THEREFORE, BE IT RESOLVED as follows:

1. Schedule a Meeting of the Town Board, Town of Marbletown on January 18 2022, for the purpose of holding a Public Hearing.
2. A public hearing will be held by the Town Board on January 18, 2022, at 6:05 PM local time at the Rondout Municipal Center, 1915-1925 Lucas Avenue, Cottekill, NY, to hear all interested parties on the proposed Local Law # ____ of 2022 entitled "A Local Law # ____, 2022 Fence Law "
3. The Town Clerk is directed to advertise such public hearing in the official newspaper of said Town, on the website of said Town and is directed to refer the proposed local law to all municipalities adjacent to the Town and any other applicable entities as required.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Councilman Stewart	Voting <u>Aye</u>
Councilman Lafera	Voting <u>Aye</u>
Councilman Foote	Voting <u>Aye</u>
Councilman Hunt	Voting <u>Aye</u>
Supervisor Parete	Voting <u>Aye</u>

Resolution #107-2021 was thereupon adopted.

Heather Moody, Town Clerk/Tax Collector

Dated: December 21, 2021