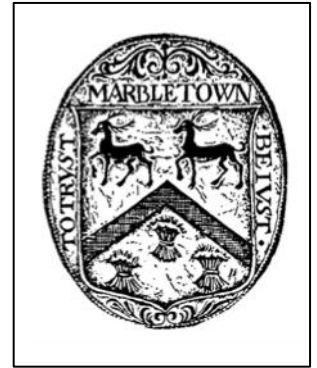


Local Law No. 1 of 2022

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.