

August 8, 2022

H). Resolution #72

To re-introduce a local law of the year 2022

Supervisor Corcoran proposes the following:

_____, seconded by _____, introduced the following proposed local law, to be known as Local Law No. ____ of 2022, entitled, Local Law No. ____ of 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 “ZONING” OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 “TERMS DEFINED” TO AMEND DEFINITIONS FOR “BED AND BREAKFAST” AND “SHORT-TERM RENTAL”, SECTION 155-12 “USE REGULATIONS”, SECTION 155 ATTACHMENT 2, SECTION 155-27 “OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS”, SECTION 155-30 “MULTIPLE DWELLINGS”, AND ADDING SECTION 155-32.4 “BED AND BREAKFAST”.

WHEREAS, this Resolution replaces an earlier Resolution of Introduction adopted on July 11, 2022, and the earlier Resolution is withdrawn; and

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Section 155-1 of the Town Code of the Town of Marlborough is amended as follows [deletions are stricken and additions are underscored]:

BED AND BREAKFAST

~~A home occupation~~ An owner-occupied dwelling allowing overnight accommodations in residential structures which takes place only in owner-occupied structures in which at least one (1) room and not more than five (5) rooms are offered for rent for transient occupancy. Use is allowable for up to five (5) bedrooms within the owner-occupied structure, excluding the primary owner’s main living quarters. The use is limited to 50% of the structure. Meals may be served to guests of the business. Use is subject to site plan review by the Planning Board. Each owner of a Bed and Breakfast overnight accommodation must obtain an annual operating permit from the Building Department and must pay any related permitting or inspection fees established by the Town. These fees from time to time may be updated and changed during the Town Board annual reorganization meeting.

SHORT-TERM RENTAL

The rental by a tenant of all or part of a furnished, self-contained detached dwelling unit for a period of 30 days or less (the “short-term rental unit”), fee title to which is owned by the person who i) owns fee title to and ii) ~~permanently resides at the short-term rental unit or at~~ owns a dwelling unit which is next door to or directly across the street from the short-term rental unit as his or her primary residence (the “owner”). An owner shall not own or have an ownership interest in more than two short-term rental units within the Town of Marlborough. ~~one in which he or she resides as his or her primary residence and one which is next door to or directly across the street from such primary residence~~

Section 2. Schedule I, “Lot, Yard and Height Regulations” of Chapter 155 Attachment 2 of the Marlborough Town Code is amended to add “With public water and sewer and natural gas (square feet)” in the “Regulations” column, and to insert “7,500” in the column for District R.

Section 3. Section 155-27(B)(2) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

Dimensions for required loading berths. Each required loading berth shall be ~~a minimum of 60 feet long, 14 feet wide and, if covered, 15 feet high.~~ determined at the discretion of the Planning Board. Minimum length may be increased depending on the dimensions of the transportation mode (vehicle or railroad car) customarily serving the building described in Table 2 above.

Section 4. Section 155-30(B)(2) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

Minimum distances between structures in all zones (except C-1 and R). Where there are two or more structures on a single lot devoted to multiple dwellings, the minimum distance between structures shall be 1 1/2 times the height of the highest structure.

Section 5. Section 155-32.4 of the Town Code of the Town of Marlborough is added to read as follows [deletions are stricken and additions are underscored]:

Section 155-32.4 Bed and Breakfast

Each owner of a Bed and Breakfast must obtain an annual operating permit from the Building Department, must pay any related permitting/inspection fees, and must comply with the following:

A. Application process and required submittals.

(1) Provide a completed annual permit application, including:

(a) A safety/egress plan, to be posted in the proposed Bed and Breakfast in a visible location and on the back of each bedroom door of a bedroom occupied by a renter.

(b) A parking layout plan identifying where parking is to be located as required in accordance with standards set forth in § 155-27 of this chapter.

(c) A garbage removal plan (garbage receptacles cannot be left out for more than 24 hours before and after pickup).

B. The name and contact information of the owner shall be provided to the Building Department and shall be posted in the Bed and Breakfast. Both the owner and the renter will be responsible for addressing rental issues and compliance with Bed and Breakfast requirements within 24 hours. The owner must notify the Building Department of any changes in Bed and Breakfast contact information and posted notice(s) in the Bed and Breakfast shall be revised accordingly.

C. Occupancy shall be limited to two guests per bedroom and total Bed and Breakfast rental occupancy shall be posted in the Bed and Breakfast. Children 12 years old and under shall not be counted as guests.

D. Owners of a Bed and Breakfast must register with Ulster County in accordance with Ulster County Local Law No. 5 of 1991. A copy of said registration must accompany each Bed and Breakfast application to the Town Building Department. Owners of properties in the Town of Marlborough that are listed on the Ulster County registry of homes used for short-term rentals or Bed and Breakfasts shall receive notification from the Building Department of the provisions of the Town Code applicable to Bed and Breakfasts, including the registration and operational requirements.

E. A Bed and Breakfast must pass a yearly fire/safety inspection and a copy of the inspection report must be attached to the Bed and Breakfast annual renewal permit applications. All Bed and Breakfasts must comply with New York State Building Code requirements.

F. Only an owner is permitted to register a Bed and Breakfast. An individual owner must be a permanent resident of the Town of Marlborough and must occupy the residence to be used as the Bed and Breakfast full-time.

G. The Town Board may set limits on the number of Bed and Breakfasts permitted within the Town and shall establish the fee schedule on an annual basis.

H. Each owner will provide guests with copies of applicable local laws, including the noise, fire, safety ordinances and requirements. Each owner will also provide emergency contact information as well as the address of the property where the Bed and Breakfast is located and will ensure the property address is clearly identifiable from the street. Owner will provide guests with a property map that shows the property boundaries.

I. An approved Bed and Breakfast will be assigned a registration number that must be included in all rental listings, both print and online, and must also be posted within the Bed and Breakfast. Advertising on or at the site of the Bed and Breakfast is prohibited.

J. Failure to comply with the requirements of this section may result in denial of a Bed and Breakfast application by the Building Department.

K. Three or more convictions for violations of local laws may lead to revocation or nonrenewal of a Bed and Breakfast operating permit by the Building Department.

L. The owner shall be responsible for compliance with the provisions of this section and management of his or her Bed and Breakfast.

Section 6. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 7. Pursuant to Section 22 of this state's Municipal Home Rule Law, this local law shall modify and supersede any provisions of state statute which are inconsistent with the terms of this local law.

Section 8. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, the Town Board has determined that the action to amend the Town of Marlborough Zoning Law is a Type I Action under the New York State Environmental Quality Review Act (SEQRA).

WHEREAS, that because only the Town Board can consider and adopt changes to the Town Code, that it is the only involved agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law.

WHEREAS, the Town Board has determined that the amendments must be referred to the Ulster County Planning Board for review and recommendation pursuant to General Municipal Law § 239-m.

WHEREAS, the Town Board refers this matter to the Town of Marlborough Planning Board pursuant to Town Code § 155-49.

Supervisor Corcoran advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this law. He offered the following resolution which was seconded by Councilman _____, who moved its adoption:

WHEREAS, on August 8, 2022, _____ has introduced this local law for the Town of Marlborough, to be known as “Town of Marlborough Local Law No. ____ of the Year 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 “ZONING” OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 “TERMS DEFINED” TO AMEND DEFINITIONS FOR “BED AND BREAKFAST” AND “SHORT-TERM RENTAL”, SECTION 155-12 “USE REGULATIONS”, SECTION 155 ATTACHMENT 2, SECTION 155-27 “OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS”, SECTION 155-30 “MULTIPLE DWELLINGS”, AND ADDING SECTION 155-32.4 “BED AND BREAKFAST”.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held on August 22, 2022, at 7:00 o’clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough, by the Town Clerk, at least ten (10) days before such hearing and that notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on August 22, 2022 at 7:00 o'clock, p.m., prevailing time, on proposed Local Law No. ____ of the Year 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 "ZONING" OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 "TERMS DEFINED" TO AMEND DEFINITIONS FOR "BED AND BREAKFAST" AND "SHORT-TERM RENTAL", SECTION 155-12 "USE REGULATIONS", SECTION 155 ATTACHMENT 2, SECTION 155-27 "OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS", SECTION 155-30 "MULTIPLE DWELLINGS", AND ADDING SECTION 155-32.4 "BED AND BREAKFAST".

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York
 _____, 2022

COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Corcoran _____

Councilman Molinelli _____

Councilman Cauchi _____

Councilman Zambito _____

Councilwoman Sessa _____

DATED: Milton, New York
_____, 2022

COLLEEN CORCORAN, TOWN CLERK