

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
MAY 03 2021

Local Law No. 2 of the year 2021

A local law A LOCAL LAW KNOWN AS "REGULATION AND CONTROL/DELIVERY OF FILL"
(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.)



Town of Marbletown

Local Law 2 of 2021

Regulation and Control / Delivery of Fill

The Town of Marbletown intends to regulate and control the importation and delivery of fill material that is being generated or imported into the Town. The Town is looking to make sure that materials are determined to be allowable and not contaminated. The Town by adoption of this local law shall regulate the delivery and use of fill materials in excess of 200 yards through a permitting process. It is not the intent of the Town to restrict clean, native soil from within the town but to regulate the use of fill material being manufactured from Construction and Debris or other potentially contaminated materials that are being either brought into the area or generated in the region from contaminated waste, industrial, manufacturing and construction materials.

1) **Applications.**

- a) All permits shall only be issued for a maximum of 4 months, with a single renewal, and shall be based upon the proposed construction work and renewals shall be made as if the application was brought anew.
- b) Permits shall be issued in conjunction with Building Permits where applicable when a Building Permit is being applied for and shall be triggered based on, but not limited to, the installation of a septic system, fill material for site elevation, driveway materials and the construction plan shall include protection of watershed plan along with a soil and erosion plan. If determined by the Building Department or Town Engineer that additional documentation or engineering plans are required those will be made part of the permit application process.
- c) All applications and representations shall be verified under oath.

2) **Definitions.**

- a) "**Fill**" shall include **any and all** material delivered to a site for purposes of filling in land or regrading and shall include but not be limited to **Topsoil, Sand, Stone, Mulch**.
- b) **Construction and Demolition Material**- Construction and demolition debris is solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures, and roads; and uncontaminated solid waste resulting from land clearing. (see NYS DEC <https://www.dec.ny.gov/chemical/107410.html>)
- c) **Recycled Aggregate** – includes recognizable bricks, cement, concrete pavement and/or asphalt pavement.

- d) Beneficial Use Determination (BUD)- Please refer to the DEC guidelines -
 - i) See: <https://www.dec.ny.gov/chemical/8821.html>.
 - ii) Fill material and excavated soils from non-industrial or manufacturing sites that is generated outside of New York City which exhibits no evidence of historic impacts, such as spills, or exhibits no visual or other indication of chemical or physical contamination (e.g., odors, sheen, etc.) is not subject to the requirements of Section 360.13 (§360.12(c)(1)(ii)).
- e) Agricultural Soil – soil from an existing or fallow (non-operational) farm or agricultural operation, shall require testing.

3) Hauler permits.

- a) On all sites in the Town of Marbletown in which fill is delivered, in excess of 200 yards, the hauler of said site shall obtain a permit from the Building Department which will require compliance with 6 NYCRR 360.
- b) The following information is required to be provided to the Building Department in order to obtain a permit:
 - i) Permit must clearly state Hauler's contact information, DOT permit number and the Street Address, City/Town/State that fill is originating from.
 - ii) Plans (Maybe required to be generated by a licensed Engineer dependent on the size of the project) showing the section, block, and lot numbers upon which the activity will be conducted.
 - iii) The names and addresses and the section, block, and lot numbers of all contiguous property owners, for larger projects when determined by the Building Department the names and addresses and section, block, and lot numbers of all property owners within 500 feet of the proposed site.
 - iv) A plan showing all existing and proposed contour lines, may be required by the Building Department or Town Engineer. depending upon the amount of fill to be delivered, location of trees over four inches in diameter measured four feet from the ground and road access to the site.
 - v) An Erosion Control plan in compliance with the Town of Marbletown's Code.
 - vi) Proof of insurance adequate to cover the intended work pursuant to the terms of the permit. Listing the Owner and The Town of Marbletown as an additional insured on the policy (this is already required for Building Permit applications).
- c) The Hauler shall be required to post a Certificate of Insurance with the Town Clerk, in a form acceptable to the Town Attorney, in an amount to be fixed by the Building Department, prior to issuance of said permit in the following cases:
 - i) When the estimated cost of the work, including all lots, as shown in the application, or as reasonably calculated by the Building Inspector, exceeds \$50,000; or

ii) When the estimated time of completion as set forth in the application or as reasonably calculated by the Building Inspector, exceeds 60 days from the issuance of the permit.

d) Haulers who transport and deposit contaminated soils within the Town of Marbletown shall be prosecuted criminally under the Laws of New York State and the County of Ulster.

4) **Fee and Monitoring Fee.**

a) The Building Inspector shall charge a permit fee to the owner of said site in the amount as set forth in the most current resolution of the Town Board fixing the fee pursuant to § 99-17 of the Town Code.

b) If in the discretion of the Building Department soil/fill testing or further monitoring is required, the owner of said site shall be required to provide testing from a certified laboratory or testing facility. And may further be required to maintain an inspector on site or to pay such sums to the Building Department to cover such costs. The Owner of the site shall be charged a fee, as established by the Town of Marbletown, Town Engineer, in addition to the permitting fee in § 99-17 of the Town Code.

5) **Investigation.** After the adoption of this Local Law in the event of any depositing or delivery of Fill in violation of this Law an investigation by the Marbletown Building Department or Town Engineer shall be initiated.

6) **Enforcement.** The Town of Marbletown Building Department Inspectors are hereby authorized to issue and serve an appearance ticket with respect to violations of this local law.

a) Service of Appearance Tickets: Under Chapter 5 of the Town of Marbletown Code an Appearance ticket issued.

b) Any misdemeanor or felony conviction relating to the delivery of construction fill or involving construction shall preclude an applicant from receiving a permit.

7) **Assessment of costs and remediation.**

a) **Authority to remove and restore.** In the event that the owner, occupant, or person in control of such site shall fail to comply with this article, the town shall have the authority, as provided for herein, to enter onto such land and remove such noncomplying fill and restore the land to an appropriate and safe state and charge the cost and expense of such action against the owner and establish a lien against the land in the manner herein provided.

b) **Town board action.** Notwithstanding anything stated in this article, any owner of real property in the town shall be required to remove the noncomplying fill which exists upon his land and restore the land to an appropriate and safe state or prior natural state, when directed to do so by resolution of the Town Board, pursuant to the authority provided under Town Law § 64, Subdivision 5-a.

c) **Notice to be served.** Whenever the Town Board shall adopt a resolution requiring the owners of land to remove the noncomplying fill which exists thereon and restore the land to an appropriate and safe state,

the Town Board shall specify the time within which such work shall be completed. Such notice shall set forth, with reasonable certainty, the location at which the condition exists, the material to be removed and the requirement that appropriate restoration measures must be taken. Giving due consideration to the material and the location thereof, the town shall give the owners no more than 30 days from the date of the mailing of the notice during which actual removal work on such land shall be commenced and no more than 90 days from the date of the mailing of the notice during which removal work and restoration of the land shall be completed. Notice of the adoption of a resolution requiring the work shall be served upon the owners of the land by certified mail, addressed to either the owners at the address of the land or the last known address of said owners. In removing the noncomplying fill and restoring the land to an appropriate and safe state, the owners shall be required to comply with all local, County, State and Federal laws, rules, regulations, orders, and ordinances.

- d) **Failure to comply.** Whenever any notice referred to in this article has been mailed and the owner shall neglect or fail to comply with any of the time periods provided herein, the Town Board may authorize the work to be done and shall provide for the cost thereof to be paid from the general town funds as directed by resolution.
 - e) **Manner of assessment of cost.** In any case where it shall be necessary for the Town Board to have the work performed due to the owner's failure to comply with the Town Board's resolution, the town shall be reimbursed for the cost of the work performed or the services rendered (including, without limitation, the cost of professionals employed by the town) at its direction by assessment or levy upon the lots or parcels of land where such work was performed, or such services rendered. All costs actually incurred by the town upon each lot or parcel and the charge therefor shall be assessed and collected in the same manner and in the same time as other ad valorem town charges.
 - f) **Violations and enforcement.** Any person who violates this article, upon conviction thereof, shall be punishable by a fine of not less than \$1,000 per day and not more than \$2,500 per day or by imprisonment for a term not to exceed 60 days. Each day's continued violation shall constitute a separate additional violation and shall be considered to be a misdemeanor.
 - g) **Convictions.** Convictions for a violation of this local Law shall constitute and effect an immediate revocation of the permit granted hereunder.
- 8) **Suspension of Performance.** The Building Inspector may suspend the performance of any delivery of fill and also may revoke any permit issued hereunder or under any other provision of law purporting to authorize such delivery of fill for a like period, at any time, in the event of an actual or threatened violation of this article. The Building Inspector shall have the further authority to suspend and revoke all other permits at the site when the instant permit is violated or there is a threatened violation.
- a) The Building Inspector shall accomplish such suspension and revocation by delivering, personally or by certified mail, a written notice thereof, stating the particular grounds therefor, to the applicant. Thereafter, during the period of such suspension and revocation, no delivery of fill shall be permitted or performed.
 - b) Any person aggrieved by such suspension and/or revocation may appeal therefrom to the Town Board,

who may affirm, modify, or reverse the Building Inspector's action or make such other disposition of the appeal which may be consistent with the purposes of this article.

9) **Penalties and Punishment.** In addition to the above-provided penalties and punishment and such other remedies as may now or hereafter be provided by law, the Building Inspector may maintain an action or proceeding in the name of the town in any court of competent jurisdiction to compel compliance with or to restrain by an injunction the violation of such article and to recover, by appropriate civil remedies, any cost, expense or damage sustained by the town in consequence of such violation against the Hauler or the Property Owner, including an action to enforce the Certificate of Insurance provided for in this article.

10) **Exemption.**

a) This article shall not apply to the homeowner who has delivered on his property 200 yards or less of fill, in an aggregate, on an annual basis.

(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. 2 of 2021 of the ~~(County)~~(City)(Town)(Village) of MARBLETOWN was duly passed by the TOWN BOARD on APRIL 20 2021, 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.~~

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

~~Date: *4.27.2021*~~

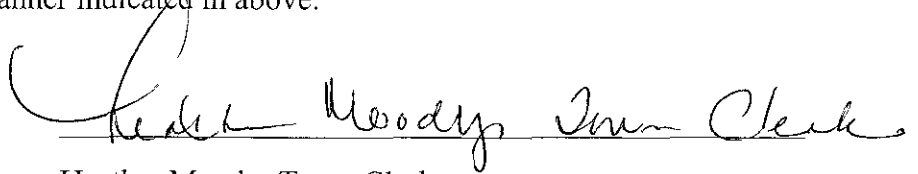
(Seal)

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. 2 of 2021 of the Town of Marbletown, was duly passed by the Town Board on April 20, 2021 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: 4/27/2021

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 March 16, 2021 at 7:00 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, Don LaFera, Eric Stewart and Tim Hunt

ABSENT:

The following Resolution was offered by Councilwoman Foote seconded by Councilman Hunt:

RESOLUTION#29-2021; SETTING THE PUBLIC HEARING DATE FOR THE PROPOSED LOCAL LAW NUMBER #2 OF 2021, A LOCAL LAW KNOWN AS REGULATION AND CONTROL/DELIVERY OF FILL

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 2021, Regulation and Control/Delivery of Fill, in order to achieve the purposes and objectives set forth in the Local law.

NOW THEREFORE, BE IT RESOLVED as follows:

1. A public hearing shall be held at the Town Hall or Zoom at 6:00 p.m. on Tuesday April 20, 2021 by interested persons, upon passage of this resolution, to hear all interested parties on the proposed Local Law # ___ of 2021 entitled "A Local Law # ___, 2021 Regulation and Control/Delivery of Fill "

2. 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 #29-2021 was thereupon adopted.

Heather Moody, Town Clerk/Tax Collector

Dated: March 16, 2021



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 April 20, 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, Eric Stewart, and Tim Hunt

ABSENT: Don LaFera

The following Resolution was offered by Councilwoman Foote seconded by Councilman Hunt:

RESOLUTION #39-2021 A LOCAL LAW TO REGULATE AND CONTROL FILL/DELIVERY

WHEREAS, a proposed local law entitled, “**Regulate and Control Fill/Delivery**” was presented to the Town Board on March 16, 2021; and

WHEREAS, the proposed law was referred to the Ulster County Planning Board pursuant to Section 239-m of the General Municipal Law, which responded on April 7, 2021, that the Town Board has considered the County comments; and

WHEREAS, a resolution was adopted by the Town Board of the Town of Marbletown on March 16, 2021, setting a public hearing to be held by said Town Board on April 20, 2021 at 6:00 p.m. at the Rondout Municipal Center and on Zoom, to hear all interested parties on the proposed local law; and

WHEREAS, notice of said public hearing was duly advertised in the Daily Freeman, the official newspaper of said Town, not less than ten days prior to the date of said public hearing; and

WHEREAS, said public hearing was duly held on April 20, 2021 at said time and place and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed local law, or any part thereof; and

WHEREAS, the proposed local law constitutes a Type I action for purposes of the State Environmental Quality Review Act; and

WHEREAS, the Town Board of the Town of has determined after review that the adoption of a Local Law known as the Regulate and Control Fill/Delivery Law does not have a significant environmental impact; and

WHEREAS, The Town Board of the Town of Marbletown after review finds that it is in the public interest to enact this local law.

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Marbletown as follows:

1. The Town Board hereby adopts said Local Law No.2 of 2021, entitled, **“Regulate and Control Fill/Delivery”**.

2. The Town Clerk is hereby directed to enter said local law in the minutes of this meeting and to give due notice of the adoption of said local law to the Secretary of State of New York, and to take all other actions as may be required by law.

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>Absent</u> |
| Councilman Foote | Voting <u>Aye</u> |
| Councilman Hunt | Voting <u>Aye</u> |
| Supervisor Parete | Voting <u>Aye</u> |

Resolution #39-2021 was thereupon adopted.

Heather Moody, Town Clerk/Tax Collector

Dated: April 20, 2021