

TOWN OF MARBLETOWN

LOCAL LAW NO. \_\_\_\_ OF 2011

A LOCAL LAW AMENDING CHAPTER 128 “HERITAGE PRESERVATION” OF THE TOWN OF MARBLETOWN CODE IN ORDER TO REVISE PROVISIONS CONCERNING MEETING SCHEDULES, CLERICAL DUTIES AND APPLICATION REQUIREMENTS AND REVIEW

Be it enacted by the Town Board of the Town of Marbletown as follows:

SECTION 1. PURPOSE

This Local Law is intended to revise provisions in Sections 128-2, 128-3 and 128-6 of Chapter 128 “Heritage Preservation” of the Marbletown Code concerning the Historic Preservation Commission’s meeting schedule, Historic Preservation Commission and Town Board application review procedure and timing and related clerical issues and application requirements including a fee that is to accompany an application made to the Commission. The intent of the Local Law is to allow for a more effective and efficient review of applications pending before the Historic Preservation Commission and the Town Board.

SECTION 2. REPEAL

Sections 128-2(F) and (G), 128-3(E), (F), (H), (I) and (K) and 128-6(E) of Chapter 128 “Heritage Preservation” of the Town Code of the Town of Marbletown are hereby repealed.

SECTION 3.

Sections 128-2(F) and (G), 128-3(E), (F), (H), (I) and (K) and 128-6(E) of Chapter 128 “Heritage Preservation” of the Town Code of the Town of Marbletown are hereby replaced with the following provisions:

**Section 128-2. Historic Preservation Commission.**

F. The Commission shall meet at least monthly unless there are no applications pending before the Commission and no applications waiting to be heard by the Commission, in which case no meeting of the Commission shall be required to be held. Additional meetings may be held at any time on the written request of any two of the Commission members or at the discretion of the Chair. All meetings shall comply with the New York State Open Meetings Law. A minimum of six meetings of the Commission must be held during the course of each calendar year, regardless of applications pending.

G. A quorum is needed for the Commission to conduct its business. A quorum for the transaction of business of the Commission shall consist of more than half of the current members of the Commission.

### **Section 128-3. Designation of landmarks or historic districts.**

E. A request for designation of an individual landmark or historic district may be initiated by any person or organization, including members of the Commission, on forms provided by the Town Clerk. A non-refundable application fee payable to the Town of Marbletown shall accompany the application. Such fee shall be established by resolution of the Town Board and placed in the Town of Marbletown Fee Schedule. The fee may thereafter be amended from time to time by like resolution. A letter advising of an application submitted to the Town by a party other than the owner(s) of the property which is the subject of the application shall be sent via certified mail to the property owner(s) by the Town Clerk within three (3) business days of the filing of the application with the Clerk. Upon the filing of such request and application fee with the Town Clerk, the Commission shall carefully evaluate said request to determine whether it has merit and is likely to meet the criteria set forth in § 128-3 of this chapter, or whether the request for designation should be dismissed by reason of lack of significance or incomplete application. The Commission shall review an application received by the Town Clerk at its next scheduled meeting so long as the application has been filed with the Town Clerk at least five (5) business days prior to such meeting. Any application failing to meet the five (5) day filing deadline shall be reviewed by the Commission at the next scheduled meeting following the Commission meeting missed by the applicant due to the failure to file the application in accordance with the five (5) day deadline. At the meeting at which the Commission first reviews an application, the Commission shall determine whether the nomination should move forward in the designation process and whether the application for designation should be accepted, and it shall set a public hearing date on the request for designation to be held by the Commission if the application is accepted. Such public hearing shall be held within 32 days of setting the date for same.

F. The Marbletown Town Clerk shall provide notice, timely provided by the Commission to the Town Clerk, of an accepted request for designation by first class mail to the owner(s) of the property or properties proposed for designation, describing the property and shall provide notice of a public hearing to be held by the Commission to consider the recommendation. If the owner(s) of the property have not signed the nomination application, notice must be sent to the owner(s) by certified mail and the applicant must be notified by the Town Clerk in a timely manner by first class mail.

- (1) The Town Clerk shall ensure that notice of the public hearing is published at least once in a newspaper of general circulation at least 14 days prior to the date of the public hearing.
- (2) Upon reasonable request by an absent owner, the Commission will consider a postponement of a hearing for a recommendation.

(3) Simultaneously with the mailing of such notice to the owner(s), the Town Clerk on behalf of the Commission shall cause a copy of the same to be delivered to the Marbletown Building Inspector.

(4) Once the Town Clerk has issued notice of a public hearing on an accepted request for designation, no building or demolition permits shall be issued by the Marbletown Building Inspector pending the resolution of the application by the Commission and Town Board.

(5) Should the Commission fail to open a public hearing on the request for designation within the time frame set forth in §128-3.E, absent a request by a property owner pursuant to § 128-3F(2), the Building Inspector shall treat the property or properties under consideration as if the Commission has dismissed the application for lack of significance.

H. The Commission shall make a decision on the accepted request for designation within 32 days of the close of the public hearing(s). The Commission shall promptly deliver a copy of its decision to the Town Clerk who shall then promptly send by certified mail a copy of Commission's decision to the owner(s) of the property or properties and the applicant, and provide copies to the Town Board and copies to the Building Inspector and the Town Assessor. The Commission's decision shall be in writing and shall state the reasons therefor.

I. If the Commission votes to recommend designation of the property as a landmark or properties as an historic district, the Town Board shall hold a duly noticed public hearing, at which members of the public and any aggrieved property owners will be given an opportunity to comment, within 62 days of the filing of the Commission's decision with the Town Clerk. The Town Clerk, at the Town Board's direction, shall provide notice by certified mail to owner(s) of the property or properties and the applicant at least 10 days prior to the public hearing. Following the public hearing, the Town Board shall decide to designate or not designate the property or properties. If the Board does not act within 32 days of the close of the required Town Board public hearing, the request for designation will be deemed denied by the Town Board. The Town Board shall endeavor to make a determination on each recommendation for designation received from the Commission.

K. When a designation is filed with the Town Clerk as approved by the Town Board, the Town Clerk shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the office of the Ulster County Clerk for recording and to the affected property owners.

#### **Section 128-6. Certificate of appropriateness application procedure.**

E. The Commission shall approve, approve with modifications, or deny a certificate of appropriateness on such permit within 62 days from receipt of the completed application. The time may be extended at the written request of, or with the consent, of the applicant.

- (1) During this time, the applicant or applicant's representative may meet with the Commission to consider alternative designs if needed, advice on technologies, available restoration skills and possible financial assistance.
- (2) The Commission may also hold a public hearing on the application, at which an opportunity will be provided for proponents and opponents of the application to present their views.

#### SECTION 4. SEVERABILITY

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of the provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Marbletown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

#### SECTION 5. REPEAL

All ordinances, local laws, and parts thereof inconsistent with this Local Law, are hereby repealed.

#### SECTION 6. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.