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County City Town Village
(Select one:)

of MARBLETOWN

**FILED
STATE RECORDS**

AUG 26 2024

Local Law No. 3 of the year 20 24 DEPARTMENT OF STATE

A local law A LOCAL LAW TO AMEND THE ZONING LAW
(Insert Title)

Be it enacted by the TOWN BOARD 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 NO. 3 OF 2024
A LOCAL LAW TO AMEND THE ZONING LAW

BE IT ENACTED by the Town Board of the Town of Marbletown as follows:

Section 1. Legislative purpose and intent.

It is the intent and purpose of this Local Law to amend Chapter 200 of the Town Code to allow adult-use cannabis retail dispensaries in accordance with the New York State Marijuana Regulation and Taxation Act § 131 and to modify a provision of the Zoning Law that applies to approval of commercial telecommunications service facilities by transferring the responsibility for issuing special use permits from the Zoning Board of Appeals to the Planning Board, which is consistent with all other uses permitted by the Schedule of Use regulations found in § 200-8 of the Zoning Law. The amendments are necessary and desirable to protect the public health, safety, welfare, and the environmental resources of the Town of Marbletown.

The cannabis retail dispensary amendments will provide a consistent regulatory pathway for the cannabis industry consistent with state regulations, will foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and will ensure that environmental, public health, safety and potential nuisance factors related to the cannabis industry are adequately addressed.

The amendments pertaining to commercial telecommunications service facilities (facilities) will remove a restrictive requirement that has prevented the development of adequate cellular telecommunications within the Town. The current requirement mandates that new facilities must be located at least 500 feet from the nearest property line, meaning that the minimum dimensions of a parcel where a facility could be sited must be well in excess of 1,000 feet in every direction. The amendment will allow a new facility to be sited so that the distance to the nearest property line is at least equal to the facility's "fall zone," which is the height of the facility to the nearest property line, road, habitable dwelling, business or institutional use, or public recreation area.

Class B and C Commercial telecommunications service facilities are currently subject to approval of a special use permit by the Town Zoning Board of Appeals. The Town of Marbletown Planning Board is responsible for the review and approval of all other uses that require approval of a special use permit. The amendments will transfer that responsibility to the Planning Board consistent with the current practice in the Town of Marbletown where the Planning Board simultaneously reviews and approves all site plan and special use permit applications except for commercial telecommunications service facilities.

Section 2. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

Section 3. Terms defined.

Article IV, Section 200-13 of the Zoning Law entitled “Terms defined” is hereby amended by adding the following new definitions:

CANNABIS RETAIL DISPENSARIES

A retail facility that sells at retail any cannabis product, the sale of which a license is required for an adult-use cannabis retail dispensary under the provisions of the New York State Marijuana Regulation and Taxation Act.

DRIVE-THROUGH SERVICE

A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

Section 4. Regulations.

Article III, Section 200-8 of the Zoning Law entitled "Schedule of Use Regulations" is hereby amended by adding a new row under Retail Trade Uses entitled "Cannabis Retail Dispensary" as follows:

Use	A-2 A-3 A-4	R1 R2	R-3	SR-E	SR-N	B-1	B-2	I-1	IB	Supplementary Regulations
RETAIL TRADE USES:										
Cannabis Retail Dispensary	X	X	X	X	X	SU	SU ¹	X	X	§ 200-46.D(18)

NOTES:

1. Limited to Cannabis Retail Dispensaries in buildings with direct access onto State Route 213 in the B-2 District within the hamlet of High Falls.

Article VI, Section 200-46.D of the Zoning Law entitled "Special conditions" is hereby amended by adding a new Subsection "18" as follows:

- (18) Cannabis retail dispensaries are subject to compliance with the New York State Marijuana Regulation and Taxation Act, the Regulations pursuant to 9 NYCRR § 119, and with the following special conditions:
- (a) Cannabis retail dispensaries are allowed by special use permit from the Planning Board within the B-1 Zoning district and within the B-2 Zoning District as specified in Note 1 of § 200-8 of the Zoning Law, the Schedule of Use Regulations.
 - (b) Use of the Town of Marbletown Design Standards and Guidelines for Business Districts is mandatory during the review of applications for site plan and special use permit approval. Such Standards are found in Appendix A (Attachment 2) of the Zoning Law.
 - (c) Cannabis retail dispensaries shall not open before 8 AM nor remain open after 12 AM.
 - (d) Cannabis retail dispensaries shall not have drive-through service.
 - (e) No outside displays or storage of cannabis products, related supplies or promotional materials shall be permitted, nor shall any cannabis products, related supplies or promotional materials be displayed in an area that is visible from outside the store except for the two permitted signs.
 - (f) Signage shall comply with Section 200-42 of the Zoning Law. A maximum of two signs is permitted. Sign text is limited to display of the business or trade name,

location and contact information, and the business type such as “adult-use cannabis dispensary” or similar phrase. In the event of a conflict with Section 200-42 of the Zoning Law, the more restrictive requirement shall apply.

- (g) All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. Light trespass from a property shall be designed not to exceed 0.25 footcandle at the property line. All outdoor fixtures shall be fully shielded.
- (h) Parking shall be provided at a rate of a minimum one (1) off-street parking space for each 200 square feet of customer floor area in accordance with Sections 200-39.A(1)(a) and (b) of the Zoning Law. The Planning Board may increase the required minimum number of off-street parking spaces based on a study of parking needs prepared specifically for the Cannabis retail dispensary. The Planning Board remains responsible for balancing the need for adequate parking with the need to avoid the negative environmental impacts of excessive parking and impervious surfaces.
- (i) A Cannabis retail dispensary shall not be located within 500 feet from any other Cannabis retail dispensary, such distance measured on a straight line from the nearest property line of any other existing or approved Cannabis retail dispensary to the nearest property line of the lot to be occupied by the proposed Cannabis retail dispensary.
- (j) A Cannabis retail dispensary shall comply with the locations restrictions for cannabis retail facilities pursuant to §§ 72(6) and 77(4) of MURTA
- (k) Subject to applicable law, a Cannabis retail dispensary shall include, as a part of a special use permit application to the Planning Board, copies of all information submitted to the State of New York in application for a license to operate under the Marijuana Regulation and Taxation Act.
- (l) All special use permits issued under this Section shall be conditioned on the applicant obtaining and maintaining all licenses and permits required by the State of New York and complying with all applicable State, County and Town of Marbletown regulations and all applicable laws, rules, and regulations at all times. No building permit or certificate of occupancy shall be issued for a Cannabis retail dispensary that is not properly licensed by the State of New York.

- (m) A special use permit granted under this Subsection shall have a term limited to the duration of the applicant's ownership and use of the site as a Cannabis retail dispensary. A special use permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special use permit. Relocation of a dispensary to a different site shall require approval of a new special use permit.
- (n) Any violation of this Subsection shall be grounds for revocation of a special use permit issued under this Subsection.
- (o) A revocation of the Adult-use Cannabis Retail Dispensary license by New York State shall be grounds for revocation of the special use permit.

Article VI, Section 200-49 of the Zoning Law entitled "Commercial telecommunications service facilities" is hereby amended by replacing the entire section with a Section as follows:

§ 200-49. Commercial telecommunications service facilities [Added 7-8-1998 by L.L. No. 2-1998; amended 1-22-2002 by L.L. No. 1-2002]

No commercial telecommunications service (CTS) facility shall hereafter be used, erected, moved, reconstructed, changed or altered unless in conformity with these regulations.

- A. Purposes. This section has been enacted to regulate the development of CTS facilities in the Town of Marbletown consistent with the following purposes:
 - (1) To preserve the character and appearance of the Town while simultaneously allowing adequate telecommunications service to be developed, and provide a sufficient number of locations to accommodate the needs of telecommunications service providers;
 - (2) To protect the scenic, historic, environmental, and natural or man-made resources of the community;
 - (3) To provide standards and requirements for regulation, placement, construction, monitoring, design, modification, and removal of commercial telecommunications service facilities;
 - (4) To establish a systematic review process that ensures action within a reasonable period of time for requests for authorization to place, construct, operate, or modify CTS facilities;
 - (5) To preserve property values;
 - (6) To minimize the total number and height of facilities throughout the community while providing adequate coverage for the Town of Marbletown;

- (7) To locate CTS facilities so that they do not have negative impacts on the general safety, welfare and quality of life of the community due to such factors as, but not limited to, attractive nuisance, noise and falling objects;
- (8) To require owners or sponsors of CTS facilities to configure them so as to minimize and mitigate the adverse visual impact of the facility;
- (9) To encourage sharing and the clustering of CTS facilities where possible and consistent with the design guidelines established herein.

B. Preferred types of facilities. It is the policy of the Town of Marbletown that preference be given to the location and design of CTS facilities in the following order:

- (1) Class A facilities: facilities that are incorporated into the design of existing structures such as church steeples, farm silos, water towers, etc., or added to such structure, so that the CTS facility is indistinguishable from the structure itself.
- (2) Class B facilities:
 - (a) Facilities that are attached to or mounted on existing tall structures such as utility poles, transmission line towers, silos, etc.
 - (b) Facilities that are collocated on existing CTS facilities that have previously been approved under this section, subject to the design standards set forth below.
 - (c) New facilities located in structures that are designed to simulate features such as silos, flagpoles, steeples, etc.
- (3) Class C facilities: facilities other than Class A or B facilities that conform to the design standards set forth below. Class C facilities shall be considered Type I actions for purposes of review under the State Environmental Quality Review Act (Environmental Conservation Law, Article 8, 6 NYCCR Part 617).

C. Procedures.

- (1) Class A facilities. Class A facilities may be erected upon approval of a building permit and submission of the following documentation to the Code Enforcement Officer: type of antennas, antenna gain, output frequency, number of channels, predicted coverage propagation plots indicating the signal level depicted and effective radiated power per channel.
- (2) Special use permit. No Class B or Class C CTS facilities shall be erected, reconstructed, altered, installed or moved unless a special use permit has been granted by the Planning Board, as provided in § 200-75, in accordance with the provisions of this section.

- (3) Application. The applicant for a Class B or Class C facility shall submit an application as required by the Planning Board plus a site plan as specified in § 200-68E. In addition to other required information the site plan shall show all existing and proposed structures and improvements, including roads, buildings, facility(ies), guy wire anchors, parking and landscaping, and shall include grading plans for new facilities and roads.
- (4) Supporting documentation. In addition to the site plan, the applicant shall also submit the following:
 - (a) A "zone of visibility" map showing all land area within five miles of the proposed facility from which the proposed facility will be visible. Based on the results of this map, the Planning Board may require submission of additional data, including, but not limited to, a visual simulation of the proposed facility from specific viewpoints as set forth in Subsection D(9) below.
 - (b) A map and written documentation of any facility sites in the Town of Marbletown and abutting towns which the applicant, its affiliates, agents, successors or assigns controls or in which it has a legal or financial interest. From each such facility site, it shall demonstrate with written documentation that these facility sites are not already providing or do not have the potential to provide adequate coverage and/or adequate capacity to the Town of Marbletown. The documentation for each facility site listed shall include, but not be limited to, the exact location, ground elevation, height of tower or structure, type of antennas, antenna gain, height of antennas on tower or structure, output frequency, number of channels, predicted coverage propagation plots indicating the signal level depicted and effective radiated power per channel. Similar documentation shall be provided for all facility sites in the Town of Marbletown and in abutting towns in which the applicant has no controlling legal or financial interest.
 - (c) Build-out plan. With any carrier's first application for a commercial telecommunications service facility within the Town of Marbletown, a build-out plan shall be submitted which depicts the general location, height and design of all other facilities which are deemed necessary within the Town to accomplish the applicant's coverage objectives and capacity requirements. Such build-out plan shall be based on the height, location and output of the initial proposed facility and shall include predicted coverage propagation plots indicating the signal level depicted showing all existing and future facilities within the Town and within a five-mile radius of the Town's boundaries. The build-out plan shall include a narrative which explains the basis for selecting or eliminating sites.

- (d) Alternative build-out plans. If the applicant is proposing a Class C facility, as defined below, the buildout plan described above shall be accompanied by an alternative plan(s) utilizing a combination of Class A and/or B facilities.
- (5) Review consultants. The Planning Board may request a review of the application by a qualified independent structural and/or telecommunications engineer, attorney and planner for evaluation of the need for, height and design of any new facility, including its ability to accommodate future shared use. The reasonable and necessary cost of such review shall be audited by the Planning Board and subject to review by the Town Board and be borne by the applicant.

D. Standards.

- (1) Design policies. The standards set forth below are intended to implement the following policies regarding location and design of CTS facilities:
 - (a) The visibility of a CTS facility shall be limited to the absolute minimum necessary to provide adequate service.
 - (b) Visibility shall be kept to a minimum by use of a combination of appropriate techniques, including height limits, color and texture of material, camouflage or "stealth" design, size, scale and shape of equipment.
 - (c) Limited visibility is most important when a CTS facility is located within or visible from significant viewsheds, open spaces or historic sites identified in the Town's Comprehensive Plan.
 - (d) Collocation of facilities is preferred to new facilities only when such collocation does not increase the height or visibility of the CTS facility.
 - (e) Several small facilities which have minimal visibility are preferred to one facility which has significant visibility.
 - (f) Class C facilities shall only be approved if the applicant can demonstrate that adequate service cannot be provided by use of Class A and/or B facilities.
- (2) Exempted telecommunications service facilities. This section specifically exempts the following wireless telecommunications service facilities: police, fire, ambulance and other emergency dispatch; and amateur (ham) radio dispatch services for local businesses. A CTS facility shall not be considered exempt from this section because said facility is proposed to share a facility or other structure with such exempt uses.
- (3) Location standards.

- (a) Class A and B facilities may be located in any zoning district.
- (b) Class C facilities may be located in A-3 or A-4 Zoning Districts west of Route 209 subject to the following:
 - 1. To ensure public safety, the minimum distance from the base of a CTS Tower to any property line, road, habitable dwelling, business or institutional use, or public recreation area shall be the height of the Tower, including any antennas or other appurtenances. This setback is considered the fall zone. Additional reasonable setbacks may be required by the Planning Board to ensure compliance with the standards of Section 200- 49.D.
 - 2. No facility shall be located within 1,500 feet of a district or structure listed on or eligible for listing on the State or National Register of Historic Places or a locally designated historic site.
- (4) Design standards.
 - (a) Class B facilities located on existing utility poles or similar structures shall be of a size, color and profile to minimize visibility.
 - (b) Class B facilities (collocated) shall be designed so that the height of the structure is not increased and the existing design elements are maintained.
 - (c) Class C facilities shall be subject to the following standards:
 - 1. The facility shall not be sited in an open field, meadow or similar un-wooded area.
 - 2. The maximum height of any facility shall not exceed 15 feet above the average tree height as measured within a one-hundred-foot radius of the facility or 10 feet above the height of the tallest tree within a fifty-foot radius of the facility, whichever is less.
 - 3. No facility shall be silhouetted against the sky as seen from any viewpoint located 1,000 feet or more from the base of the facility.
 - 4. Unless specifically required by other regulations, all facilities shall have a neutral, earth tone or similar painted finish that will minimize the degree of visual impact that a new facility may have.
 - (d) Antennas should be designed with a minimum of protruding elements and shall be as close to the supporting building, pole or tower as possible.
 - (e) Equipment shelters and similar accessory structures shall be of the minimum size necessary and either concealed in existing structures or utilize

materials, colors, shapes and textures to blend with the immediate surroundings or buried underground.

- (5) Shared use of existing facilities. An applicant shall be required to present an adequate report inventorying existing communications towers and other tall structures within five miles of the proposed site and outlining opportunities for shared use of such facilities as an alternative to a proposed new Class C commercial telecommunications service facility.
 - (a) An applicant proposing to share use of an existing facility shall be required to document intent from an existing facility owner to allow shared use.
 - (b) The Planning Board may consider a new CTS facility where the applicant demonstrates that shared usage of an existing facility is impractical due to inadequate safety, capacity and/or coverage as evidenced by accepted industry standards agreed upon by the applicant and the Town's review engineer. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing facilities as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and response for shared use shall be provided.
- (6) Shared usage of site with new facility. Where shared usage of an existing facility is found to be impractical, the applicant shall investigate and report to the Planning Board concerning shared usage of an existing facility site for its ability to accommodate a new facility and accessory uses. Any new CTS facility approved for an existing facility site shall be subject to the standards set forth herein.
- (7) New facility at a new location. The Planning Board may consider a new CTS facility on a site not previously developed with an existing facility when the applicant demonstrates that shared usage of an existing facility site is infeasible, and submits a report as described in Subsection D(5)(b) and D(6) above.
- (8) Future shared usage of new facility. Unless proven to be infeasible, the applicant must design a proposed CTS facility to accommodate future demand for similar facilities which comply with the design standards set forth herein.
- (9) Visual impact assessment. The Planning Board may require the applicant to undertake a visual impact assessment of any proposed new Class B or Class C facilities or any proposed modifications of an existing facility. The Planning Board shall utilize the relevant techniques and criteria below that it determines to be appropriate to evaluate the visual impact of the proposed facility. In its review of the visual impact assessment, the Planning Board shall consider, among other impacts, the visibility of the facility above nearby ridgelines, its

height in relation to the tree crown in the surrounding area, its color and materials in relation to those of nearby structures and other factors which contribute to or detract from the harmony of the visual environment.

- (a) Assessment of "before" and "after" views from key viewpoints both inside and outside of the Town, including state highways and other major roads, from state and local parks and other public lands; from any privately owned preserves and historic sites normally open to the public, from any other location where the site is visible to a large number of visitors or travelers and from residences within one mile of the facility. The assessment of visual impact shall consider the number of views, the extent of discord created in the view, the duration of views and the sensitivity of the land use affected.
 - (b) Suspension of balloons or other means to depict the height and location of towers proposed.
 - (c) Assessment of alternative facility designs and color schemes, including "stealth designs" that camouflage the facility.
 - (d) Assessment of visual impact of the facility base, guy wires, all appurtenances, accessory buildings and overhead utility lines from abutting properties and streets.
- (10) Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place within a period beginning six months prior to submission of an application for a special permit and ending upon the approval of the special use permit. Clearcutting of all trees in a single contiguous area exceeding 10,000 square feet shall be prohibited, and no trees shall be removed within a natural vegetated buffer to be maintained around the entire perimeter of the site with a minimum width of 50 feet, except for the access drive. Methods to control vegetation growth at the completed site shall be specified for approval.
- (11) Screening. Deciduous or evergreen tree plantings may be required to screen portions of the facility and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required where necessary to supplement existing vegetation. For all facilities, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the facility base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall

include the height of any berm.

- (12) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (13) Parking. Parking shall be provided in accordance with § 200-39. No parking space shall be located in any required yard.
- (14) Safety. The applicant shall be wholly responsible for ensuring that the telecommunications service facility site and all structures situated thereon are safe and secure for all purposes, uses and activities.

E. Other requirements.

- (1) Removal of facilities.
 - (a) Any CTS facility which ceases to operate for a period in excess of one year shall be wholly removed from the site. "Cease to operate" is defined as not performing all normal functions associated with operation of the CTS facility and its equipment for a period in excess of one year.
 - (b) Prior to special use permit approval being granted by the Planning Board, the CTS facilities' applicant, sponsor, lessee, contract vendee or owner, their successors and assigns shall obtain a financial surety, bond or similar undertaking sufficient to cover the entire cost of removal of the CTS facilities and the reclamation of the affected landscape to substantially the same condition as prior to the facilities' construction. Said financial surety, bond or similar undertaking shall be in an amount acceptable to the Planning Board and substantiated by a qualified and independent engineering expert as designated by the Planning Board.
 - (c) As part of the application process the applicant shall submit to the Planning Board a letter of commitment, which shall commit the CTS facility's owner and its successors and assigns to notify the Code Enforcement Officer, in writing, within 30 days of the discontinuance of use of the facility. Failure to notify and thereafter remove the facility and all appurtenances within a period not to exceed one year from the giving of said written notice shall be deemed a violation punishable under applicable provisions of this chapter. Notwithstanding this provision, the Code Enforcement Officer shall have the right to independently investigate any discontinuance of the facility and render a written determination setting forth the extent, duration and

facts evidencing the violation and the discontinuance of the facility. Upon rendering said written determination, written notice of the determination shall be provided to the owner and the lessees of the facility and the owners of the real property upon which the facility is situated by certified mail, return receipt requested. Upon proven receipt of the notice of the determination by the facility owner, any lessee of the facility and the owners of the real property on which said facility is situated, the Code Enforcement Officer and the Town of Marbletown may commence legal proceedings to levy upon the financial surety, bond or similar undertaking and have the facility removed from the site in accordance with all applicable law. If the bond or security is inadequate or unavailable, after due notice, the Town may re- move the structure and levy the costs upon the owner of the real property.

- (2) Insurance. Comprehensive general public liability insurance protecting against casualty and loss shall be obtained by the project sponsor or facility owner at the time the special use permit is approved by the Planning Board. The policy shall be obtained from an insurance company duly licensed to do business in New York. Said policy shall cover all occurrences and casualty loss and shall be in the amount of a minimum of \$1,000,000 per occurrence. A certificate of insurance shall be tendered to the Planning Board at the time of final special use permit approval naming the Town of Marbletown, its successors and assigns as loss payee and additional insured. Said insurance coverage shall be maintained, with written proof thereof being provided to the Town of Marbletown, its successors and assigns on a yearly basis for the period of time the CTS facility is in existence. The form, sufficiency and terms of the insurance coverage aforesaid shall be subject to the approval of the Municipal Attorney for the Town of Marbletown.
- (3) Structural inspection.
 - (a) A CTS facility owner shall submit to the Code Enforcement Officer an annual inspection report prepared for the insurance carrier by an accepted tower maintenance company certifying the continued safety of the facility.
 - (b) Should the inspection of any CTS facilities reveal any defect or change which the Code Enforcement Officer determines renders the facility, or portion thereof, unsafe, the Code Enforcement Officer shall notify the facility owner of the unsafe conditions and thereafter take necessary actions under law to have the unsafe conditions remedied.
- (4) Modifications.
 - (a) Any modification of any existing CTS facilities shall require a structural analysis, which shall be submitted to the Code Enforcement Officer for

review. For the purposes of this subsection, "modification" is defined as any alteration, change or proposed change in structure or dimension of an existing facility, number of antennas, change in antenna type or model and repositioning of any antenna.

- (b) Any modification in a CTS facility which affects factors related to the design standards set forth in Subsection D(4) above shall be referred to the Planning Board for a determination as to whether such modifications affect the findings of the Board regarding approval of the special permit. If the Board determines that the basis for the findings is affected, the owner of the CTS facility shall submit an amended application, which shall be considered under the procedures in Subsection C above.
- (5) Monitoring and evaluation of compliance:
- (a) Pre-testing. After the granting of a special permit and before the CTS facility begins transmission, the applicant shall retain an independent consultant to monitor the background levels of EMF radiation around the proposed facility site and/or any repeater locations to be utilized for applicant's CTS facility. The independent consultant shall use a monitoring protocol consistent with accepted engineering practice. A report of the monitoring results shall be prepared by the independent consultant and submitted to the Planning Board.
 - (b) Post testing. Within 30 days after transmission begins, the owner(s) of any CTS facility located on any facility site shall retain an independent consultant to conduct testing and monitoring of EMF radiation emitted from said site, and report results of said monitoring to the Code Enforcement Officer within 15 days. The independent consultant shall use actual field measurement of radiation, utilizing a monitoring protocol consistent with accepted engineering practice to measure levels of EMF radiation from the facility site's primary antennas as well as from repeaters (if any).
 - 1. CTS facility owner(s) shall provide the Code Enforcement Officer with copies of the annual report on emission compliance, certified by a licensed engineer, which is submitted to the FCC.
 - 2. Any modification of an existing CTS facility, or the activation of any additional permitted channels, shall require new monitoring.
 - (c) Excessive emissions. Should the monitoring of a facility site reveal that the site exceeds the FCC OET-65 standard, then the owner(s) of all facilities utilizing that site shall be so notified. The owner(s) shall take all necessary measures to reduce emission within 30 days of initial notification of non-compliance. Failure to accomplish this reduction of emission to comply

with the FCC OET-65 standard within 30 days of initial notification of noncompliance shall be a violation of the special use permit and subject to penalties, fines and enforcement as specified in this chapter. Such fines shall be payable by the owner(s) of the facilities with antennas on the facility site, until compliance is achieved.

(6) Maintenance. All structural and nonstructural elements of the site, including towers, accessory structures, landscaping and stealth design features, shall be maintained in the condition on which the original special permit was based.

F. Criteria for approval. Notwithstanding any other findings which it may make, the Planning Board shall specifically make all of the following findings before granting the special use permit:

(1) That the applicant is not already providing adequate coverage and/or adequate capacity to the Town of Marbletown; and

(2) That the applicant is not able to use existing facilities or sites to provide adequate coverage and/or adequate capacity to the Town of Marbletown; and

(3) That the applicant has agreed to rent or lease available space on the facility, under the terms of a fair-market lease, without discrimination to other telecommunications service providers; and

(4) That height and design of the proposed telecommunications service facility minimizes visibility of the facility and will not have a significant adverse impact on historic resources, scenic views, residential property values, natural or man-made resources; and

(5) That the proposed telecommunications service facility shall comply with all FCC regulations regarding emissions of electromagnetic radiation and that the required monitoring program is in place and shall be wholly paid for by the applicant.

G. Authority to impose conditions. The Planning Board shall have the authority pursuant to special use permit review to impose such reasonable conditions as are directly related to and incidental to the proposed CTS facilities, including that the special permit may require periodic renewal. The Planning Board shall act and render any special use permit final decision upon an application for a CTS facility in conformance within 47 USC § 332(7) of the Telecommunications Act of 1996, as promulgated and amended. In addition to the definition set forth in this chapter, the term "commercial telecommunications service facilities" shall be deemed to encompass and regulate "personal wireless service facilities" as said facilities are defined at 47 USC § 332(7)(c)(i) to (iii).

Section 5. Effective Date.

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.

(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. 3 of 2024 of the (County)(City)(Town)(Village) of MARBLETOWN was duly passed by the TOWN BOARD on AUGUST 6 2024, 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.

Leanne Moody Town Clerk

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

Date: 8/22/2024

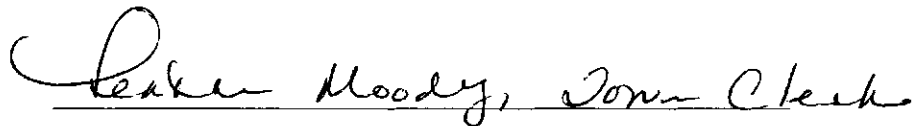
(Seal)

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. 3 of 2024 of the Town of Marletown, was duly passed by the Town Board on August 6, 2024 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.



Heather Moody, Town Clerk

Date: 8/22/2024

(Seal)

STATE OF NEW YORK

COUNTY OF ULSTER



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 May 21, 2024, 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, Tim Hunt, Mary Ann Van Benschoten and Daisy Foote

ABSENT: Ken Davenport

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

RESOLUTION #66-2024; ESTABLISHING A DATE FOR A PUBLIC HEARING REGARDING THE PROPOSED AMENDMENTS TO THE MARBLETOWN ZONING LAW CHAPTER 200 ZONING AND REFERRING COPIES OF LOCAL LAW NO 3 OF 2024 TO THE TOWN PLANNING BOARD AND ULSTER COUNTY PLANNING BOARD

WHEREAS, the Town Board of the Town of Marbletown is considering adoption of Local Law No. 3 of 2024 that sets forth the procedures for amendments to the Town of Marbletown Zoning Law pursuant to Article X, Sections 200-80 through 200-85 of the Town Code of the Town of Marbletown, Ulster County, New York; and

WHEREAS, Local Law No. 3 of 2024 sets forth a process that would allow the approval of cannabis dispensaries pursuant to the New York State Marijuana Regulation and Taxation Act, as a new retail use within portions of the Town's Business districts, subject to site plan and special use permit approvals by the Town Planning Board; and

WHEREAS, Local Law No. 3 of 2024 sets forth amendments to the Telecommunications Facilities regulations, permitted by special use permit from the Zoning Board of Appeals and the Town is considering transfer of the authorization for the issuance of special use permits for Telecommunications Facilities from the Zoning Board of Appeals to the Planning Board; and

WHEREAS, the Planning Board is authorized to approve all other special use permits in the Town; and

WHEREAS, the current requirements for establishing a new Telecommunications Facility in the Town requires that a new tower must be setback 500 feet from all property boundaries and such a restrictive distance requirement has served to prevent the installation of new Telecommunications Facilities, thereby impeding cellular communications in Marbletown; and

WHEREAS, the Town Board is considering replacing the 500-foot setback distance from all property boundaries to the "fall zone" of such facilities defined as the height of the facility to the nearest property line, road, habitable dwelling, business or institutional use, accessory structure or public recreation area; and

WHEREAS, the Town Comprehensive Plan recommends that the hamlets of Stone Ridge and High Falls be focal points for

commercial uses in the Town where an

“Intensification of development is encouraged, consistent with contemporary health standards for sewage disposal and water supply systems and design guidelines, as well as the protection of natural resources.”; and

WHEREAS, pursuant to Section 200-81 of the Zoning Law, every proposed amendment to the Zoning Law shall be referred to the Town Planning Board for an advisory report of its recommendations on the proposed Zoning amendments; and

WHEREAS, pursuant to New York State General Municipal Law Sections 239-l and 239-m, referral of certain proposed town zoning actions must be referred to the Ulster County Planning Board for inter-community or county-wide considerations; and

WHEREAS, the Town Board has called for a public hearing for the purpose of hearing from the community on the Zoning amendments described herein.

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Marbletown (by the favorable vote of not less than a majority of all the members of the Board) as follows:

1. The Town Board of the Town of Marbletown shall hold a public hearing on June 18, 2024, at 6:00 o'clock P.M. at the Town Hall, 1925 Lucas Avenue, Stone Ridge, New York, to hear all interested parties on the proposed adoption of Local Law No. 3 of 2024; and
2. The Town Clerk is hereby authorized and directed to publish notice of said public hearing in the official newspaper of the Town, on June 2, 2024, which is not less than ten (10) calendar days prior to the date of said public hearing.
3. The Town Clerk is hereby directed to refer copies of the proposed Local Law No. 3 of 2024 and related documentation to the Town Planning Board and Ulster County Planning Board for their review and comment.

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>Absent</u>
Councilwoman Foote	Voting <u>Aye</u>
Councilwoman Van Benschoten	Voting <u>Aye</u>
Councilman Hunt	Voting <u>Aye</u>
Supervisor Parete	Voting <u>Aye</u>

Resolution #66-2024 was thereupon adopted.

Heather Moody, Town Clerk/Tax Collector

Dated: May 21, 2024



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 August 6, 2024, 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, Tim Hunt, Mary Ann Van Benschoten and Daisy Foote

ABSENT: Ken Davenport

The following Resolution was offered by Councilwoman Foote and seconded by Councilwoman Van Benschoten

RESOLUTION #81-2024; AUTHORIZING THE ADOPTION BY THE TOWN BOARD OF THE TOWN OF MARBLETOWN OF LOCAL LAW NO. 3 OF 2024 REGARDING AMENDMENTS TO THE MARBLETOWN ZONING LAW CHAPTERS 200-8, 200-13, 200-46.D, and 200-49

WHEREAS, a proposed Local Law No. 3 of 2024 entitled "A Local Law to Amend the Zoning Law" was presented to the Town Board of the Town of Marbletown at a regular meeting held on May 21, 2024; and

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Marbletown on May 21, 2024, setting a public hearing to be held by said Town Board on June 18, 2024, at 6:00 PM at the Town Hall, 1925 Lucas Ave, Stone Ridge, NY to hear all interested parties on said proposed local law; and

WHEREAS, pursuant to the State Environmental Quality Review Act (SEQR), the Town Board has determined that adoption of Local Law No. 3 is a Type I action; and

WHEREAS, the Town Board prepared and considered a Full Environmental Assessment Form, which evaluates the potential environmental impacts of the proposed Zoning Amendments; and

WHEREAS, the Town Board determined that the adoption of Local Law No. 3 will not have a significant adverse impact on the environment, that a Draft EIS would not be prepared, and adopted a Negative Declaration under SEQR on July 9, 2024; and

WHEREAS, the Town Board has reviewed the Town Comprehensive Plan and determined that the proposed Local Law is consistent with the Town Comprehensive Plan; and

WHEREAS, the Town Board of the Town of Marbletown, after due deliberation, finds it is in the best interests of the Town to adopt said Proposed Local Law, in the form attached hereto.

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. 3 of 2024 in the form attached hereto and made a part of this resolution; and
2. The Town Clerk is hereby directed to enter said local law in the minutes of this meeting and in the Town Code of the Town of Marbletown, 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 Davenport	Voting <u>Absent</u>
Councilwoman Foote	Voting <u>Aye</u>
Councilwoman Van Benschoten	Voting <u>Aye</u>
Councilman Hunt	Voting <u>Aye</u>
Supervisor Parete	Voting <u>Aye</u>

Resolution #81-2024 was thereupon adopted.

Heather Moody, Town Clerk/Tax Collector

Dated: August 6, 2024