

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 Yorktown

Local Law No. 12 of the year 2016

A local law to amend Chapter 201 of the Code of the Town of Yorktown entitled "LITTERING," by
(Insert Title)

amending §201-2 entitled "DEFINITIONS" and adding a new §201-10 entitled

"RECORDED IMAGES VIOLATIONS"

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Yorktown

as follows:

Section I. Statement of Authority.

This Local Law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Chapter 201-2 of the Town Code entitled "LITTERING:DEFINITIONS," is amended to include the following definitions:

§245-5: DEFINITIONS

OWNER. Any person, corporation, partnership, firm, agency, association, lessee, or organization who at the time of the notice of violation is issued pursuant to this chapter in which a vehicle is operated:

- (1) is the beneficial or equitable owner of such vehicle; or
- (2) has title to such vehicle; or
- (3) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or
- (4) uses such vehicle in its vehicle renting and/or leasing business.

cont'd. on Pages 2A, 2B, 2C

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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LESSEE. Any person, corporation, firm, partnership, agency, association that rents, bails, leases or contracts, for the use of one or more vehicles and has the exclusive use thereof for any period of time.

LESSOR. Any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee or bailee under a rental agreement, lease or otherwise, wherein the lessee or bailee has the exclusive use of the vehicle for any period of time.

RECORDED IMAGES. Images recorded on photographs, microphotographs, videotape, electronic or digital images, or any other medium, showing the front or rear of a vehicle, clearly identifying the registration plate number of the vehicle.

VEHICLE. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power.

Section III. Chapter 201 of the Town Code entitled “**LITTERING,**” is amended by the addition of a new section §201-10 entitled “**RECORDED IMAGES VIOLATIONS**” to read as follows:

1. Legislative Intent. The Town hereby finds and determines that littering within the Town is a threat to the health, well-being and safety of the residents of the Town. As a result the Town has determined to utilize any permissible technological means available to reduce the incidence of littering. Therefore, the Town has established a policy and procedure set forth in this section to impose liability on the owner of a vehicle in any instance where the image of the operator of such vehicle is captured digitally or otherwise recorded throwing or depositing litter from such vehicle upon any street or other public place within the Town or upon private property.
2. Owner Liability. The owner of a vehicle shall be liable for a civil penalty imposed pursuant to this law if such vehicle is used or operated with the permission of the owner; express or implied, in any instance where a recorded image is obtained showing the operator throwing or depositing litter from such vehicle upon any street or other public place within the Town or upon private property.
3. Notice of Liability. A notice of liability shall be sent by the Town’s code enforcement officer by first class mail to each person alleged to be liable as an owner of a vehicle in violation of this section. A notice of liability shall contain the name and address of the person to be liable for the violation as the owner; the registration of the vehicle involved in such violation, the location where the violation occurred, the date and time of such violation. Further, the notice of liability shall advise the person charged of the court having jurisdiction to adjudicate the liability of the violation and the time in which he or she may contest the liability alleged in the notice and that a failure to contest the notice in the manner and time proscribed shall be deemed an admission of liability.

4. Certificate as Prima Facie Evidence. A certificate sworn to or affirmed by the Town's code enforcement officer primarily responsible for enforcing the provisions of this chapter based upon a review of the recorded images shall be prima facie evidence of the facts contained therein. Any recorded images shall be available for inspection in any proceeding commenced in a court of competent jurisdiction to adjudicate the liability of such violation.
5. Penalties. An owner shall be required to pay to the Town for a violation of this section a monetary civil penalty not to exceed \$500.00 for each violation, in addition to any addition to any other penalties contained in any other provision law. In the event the Town is required to institute legal proceedings in a court of competent jurisdiction to adjudicate the liability of the violation and to recover such civil penalty, upon such adjudication the Town shall be entitled to recover from the owner any and all associated costs and disbursements incurred by the Town, if any, including attorney's fees and interest upon any unpaid civil penalty calculated at the statutory rate.
6. Indemnification. If the owner of a vehicle liable for the civil penalty imposed in accordance with this section was not the operator of the vehicle at the time of violation, the owner may maintain an action for indemnification against the operator for any civil penalties paid as well as any costs, disbursements or attorney's fees assessed against the owner.
7. Defenses.
 - A. An owner shall have a valid defense to an allegation of liability under this section if the vehicle in question had been reported to a police department or agency as stolen prior to the time the violation occurred, and had not been recovered by the time the violation occurred. For the purposes of asserting this defense, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court having jurisdiction to adjudicate the liability of the violation.
 - B. An owner who is a lessor of a vehicle to which a notice of liability is issued shall not be liable for the violation, provided that he or she sends to the court having jurisdiction to adjudicate the liability of the violation a copy of the rental, lease or other such contract covering such vehicle on the day of the violation, with the name and address of the lessee clearly legible, within 30 days after receiving notice of such violation. Failure to send such information within the 30 days shall render the owner liable for the penalty prescribed in this article. When the lessor complies with the provisions of this subsection, the lessee of such vehicle on the date of the violation shall be deemed to be the owner of such vehicle for the purposes of this article.

- C. No owner of a vehicle shall be subject to a monetary fine under this article, if the operator of such vehicle was operating the vehicle without the consent of the owner at the time of the violation. However, there shall be a presumption that the operator of such vehicle was operating the vehicle with the consent of the owner at the time the violation occurred.
- 8. Nothing in this section shall preclude the Town's code enforcement officer or any other law enforcement officer take such other action in connection with violations of any other applicable rules, regulations, statutes or laws.

Section IV. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section V. Repeal

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

Section VI. Effective Date.

This Local Law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule 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. 12 of 2016 of the ~~(County)(City)(Town)(Village)~~ of Yorktown was duly passed by the Town Board on June 21, 2016, 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 2016, in accordance with the applicable provisions of law.

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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(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) *(Name of Legislative Body)* (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.

* 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.

Diana L. Quent

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

Date: June 23, 2016

(Seal)

