

A LOCAL LAW to amend Chapter 275 of the Code of the Town of Yorktown entitled “Vehicles and traffic” by adding a new Part IV

Be it enacted by the Town Board of the Town 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 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 275 of the Code of the Town of Yorktown entitled “Vehicles and Traffic” is hereby amended by adding a new Part IV to read as follows:

**§ 275-41. Title.**

This Part IV shall be known and may be cited as the “Yorktown Forfeiture of Vehicles in Connection with Drag Racing Law”

**§ 275-42. Legislative Purpose.**

The Town Board of the Town of Yorktown recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Town of Yorktown, and to property within the Town, by the use of vehicles in unlawful speed contests. The purpose of this Part is to deter illegal speed contests by permitting the seizure and forfeiture of vehicles involved in unlawful speed contests.

**§ 275-43. Definitions.**

**UNLAWFUL SPEED CONTEST**

The operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course from the same point to the same point wherein timing is made of the participating vehicles involving competitive accelerations or speeds. The operation of two or more vehicles side by side, either at speeds in excess of permitted speeds on any public street, highway or place within the Town or rapidly accelerating from a common starting point to a speed in excess of such permitted speeds, shall be prima facie evidence of an unlawful speed contest.

**§ 275-44. Forfeiture of vehicles operated by persons while engaged in unlawful speed contests.**

- A. The Town Board may authorize commencement of a civil action for forfeiture to the Town of Yorktown any vehicle, as such term is defined in Subdivision 14 of §10.00 of the Penal Law, when such vehicle is operated or used by a person who is arrested or issued a summons by a Yorktown police officer for engaging in or aiding or abetting any motor vehicle in an unlawful speed contest or exhibition of speed on a highway as prohibited by §1182 of the Vehicle and Traffic Law and such person is convicted or pleads guilty to any offense arising out of such arrest or summons. In order to establish its case in any action commenced under this article, the Town shall demonstrate, by a preponderance of the evidence in the civil forfeiture proceeding, that such person engaged in or aided or abetted any motor vehicle in an unlawful speed contest or exhibition of speed on a highway as prohibited by §1182 of the Vehicle and Traffic Law and that such person's operation or use of such vehicle contributed directly and materially to the commission of such offense.
- B. A civil action seeking forfeiture brought pursuant to this section shall be commenced in the Supreme Court of the County of Westchester within sixty (60) days after such person has been convicted or pled guilty as set forth in subsection A. The Yorktown Police Department shall make a timely notification to the Town Attorney regarding such disposition of the applicable criminal action or proceeding regarding such person.

**§ 275-45. Notice to vehicle operator, owner, and lienholder; Impounding.**

- A. A person who is arrested or receives a summons by any police officer of the Town of Yorktown Police Department for an offense under § 1182 of the Vehicle and Traffic Law, shall receive written notice from the Police Department after the time of arrest or summoning on such charge and by certified mail, return receipt requested, as soon thereafter as practical, informing such person how and when the vehicle may be released and that the vehicle may be subject to a civil forfeiture proceeding.
- B. In the event that the driver is not the registered owner of the vehicle, separate written notice shall be provided to the registered owner of the vehicle. Notice shall also be provided to any lienholder, to the extent that information is reasonably obtainable. Notice pursuant to this section shall be to the address recorded with the Department of Motor Vehicles of New York State or any other state, territory, district, province, nation or other jurisdiction, by certified mail, return receipt requested.
- C. Whenever a person has been arrested for an offense under § 1182 of the Vehicle and Traffic Law, the Yorktown Police Department may have the vehicle removed and impounded, and charge the driver and owner thereof for all expenses of removal and storage, along with the applicable fines.
- D. If the vehicle so removed is not redeemed, or if the applicable fines and costs of removal are not paid within 30 days after the levy of the fines, the Town may undertake to sell the vehicle at public auction.

**§ 275-46. Notice to the Town of owner's intention to transfer ownership or possession of vehicle.**

- A. The owner of a vehicle subject to forfeiture pursuant to this article must notify the Town of any intention to transfer ownership or possession of such vehicle, no later than fifteen days prior to such transfer. Notice provided by the Police Department under § 275-45 shall

set forth the time and manner and procedures for such notification to the Town. The provisions of this section shall remain in effect until the resolution of the forfeiture proceeding, provided, however, that the notice requirement herein shall expire as follows:

1. On the sixty-first (61st) day after any conviction or disposition as set forth in § 275-44, if the Town has not commenced a forfeiture proceeding pursuant to § 275-44 prior to such day; or
  2. On the day that the criminal action or proceeding against the person arrested or summonsed for violation of any provision of § 1182 of the Vehicle and Traffic Law is terminated in favor of such person under subdivision three of section 160.50 of the Criminal Procedure Law.
- B. Applicability to Lessors and Lienholders of Vehicles.
1. Nothing in this section shall be construed to affect the ability of an entity that leases vehicles or a lienholder to exercise its lawful rights to obtain possession of a vehicle under a contract or applicable law.
  2. In the event of a transfer of title or possession pursuant to clause (1) of this subsection, the person or entity that affects such transfer shall provide notice to the Town of its action as soon as practicable and in no event later than seventy-two (72) hours subsequent to such action.
- C. A person who transfers title or possession of a vehicle without providing notice to the Town as required by this section shall be subject, upon a judgment that the vehicle shall be forfeited, to a penalty in the amount of fifteen-hundred dollars (\$1,500) in addition to the fair market value of the vehicle at the time of the arrest. Evidence of such fair market value may be established with reference to publications such as, but not limited to, Kelley Blue Book or NADA guide.

**§ 275-47. Town's provisional remedies.**

- A. Upon receiving notification pursuant to section § 275-46, the Town may apply for a court order, either prior to or subsequent to the commencement of the civil forfeiture proceeding, to ensure that the vehicle remains available pending the outcome of the civil forfeiture proceeding pursuant to this Part. In such an application, the Town may request appropriate measures including, but not limited to, an order of the court restraining the transfer of title or possession of such vehicle, retention by the Town of the vehicle pending the outcome of the forfeiture proceeding, or a bond in the amount of fifteen-hundred dollars (\$1,500) plus the fair market value of the vehicle at the time of the arrest, to be determined as set forth in subsection C. of § 275-46.
- B. If a person is arrested or summonsed by the Town of Yorktown Police Department for an offense under § 1182 of the Vehicle and Traffic Law and such person is not convicted or does not plead guilty to any offense arising out of such arrest or summons, any vehicle retained pursuant to subsection (A) of this section will be returned to such person, or in the event that another person has a superior right of possession in such property, to such other person.

**§ 275-48. Innocent owner affirmative defense; lienholder's interest.**

- A. It shall be an affirmative defense to an action brought pursuant to this article that the owner of the vehicle, other than the person arrested or summonsed for an offense under §1182 of the Vehicle and Traffic Law, did not have actual or constructive knowledge that the vehicle would be used or operated in violation of any such offenses or that the owner took reasonable steps to prevent use of the vehicle by the person arrested or summonsed.
- B. Subject to the provisions of subsection (A) of this section, the interest of a lienholder in such vehicle shall not be subject to forfeiture pursuant to this Part, provided, however, that this provision shall not be construed to entitle a lienholder to more than the outstanding balance of the lien. For purposes of this subsection, the term “lienholder” shall mean any person, corporation, partnership, firm, agency, association or other entity who at the time of an arrest or summonsing pursuant to this article, has a financial interest recorded as a lien with the Department of Motor Vehicles of New York State or any other state, territory, district, province, nation or other jurisdiction, except that “lienholder” shall not mean an entity that leases vehicles pursuant to a written agreement subject to the New York State Personal Property Law or the Uniform Commercial Code. Nothing in this provision shall be construed to prevent a lienholder whose lien is not so recorded from intervening in any action or proceeding under this article.

**§ 275-49. Hardship relief.**

Following a determination by the court pursuant to this Part that a vehicle shall be forfeited, an owner may make a motion to the court for relief from such determination. Such motion shall be made on notice to the Town. In order to obtain such relief, the owner must submit evidence which establishes that the loss of the vehicle would cause a substantial and unwarranted hardship because the owner has no reasonable access to public transportation and to the use of another vehicle and lacks the financial resources to purchase or lease another vehicle and that possession of a vehicle is a necessary incident to his or her employment, business, trade, occupation or profession; or to his or her travel to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training; or necessary to travel to and from a necessary medical examination or necessary medical treatment for such owner or a member of his or her household. Upon satisfactory demonstration of these factors to the court, the court may grant relief from the forfeiture determination upon such terms and conditions as will provide maximum protection to the public safety, which may include, but not be limited to, installation of an ignition interlock device in such vehicle.

**§ 275-50. Settlement of claims.**

Notwithstanding any provision of law to the contrary, the Town Board shall be empowered to compromise, settle, or adjust rights, claims, demands or causes of action in favor of or against the Town arising under this Part.

**§ 275-51. Disposition of forfeited vehicles.**

- A. After a judicial determination of forfeiture, the Yorktown Police Department shall effect seizure of the vehicle, if such vehicle has not already been retained by the Town pursuant to § 275-47 of this Part, unless relief from such judicial determination by the court pursuant

to § 275-49 of this article would prevent such seizure, or the Town Board has otherwise compromised, settled or adjusted the matter pursuant to § 275-50 of this Part, in a manner that renders such seizure unnecessary.

Following such seizure, the Yorktown Police Department shall either:

1. retain such seized vehicle for the official use of its office, division or department; or
  2. transfer such seized vehicle to any Town agency, department, board or commission demonstrating need for such seized vehicle, so that such seized vehicle may be put into official use by that agency, department, board or commission; or
  3. transfer such seized vehicle to any Town-funded agency or organization demonstrating need for such seized vehicle, so that such seized vehicle may be put into use by the funded agency or organization in the regular course of business of that funded agency or organization. Any such transfer of forfeited vehicles under this subparagraph may result in an in-kind deduction from those funds paid by the Town to the specific agency or organization; or
  4. by a public notice of at least five days, sell such forfeited property at a public sale conducted by the Town of Yorktown.
- B. The net proceeds from any sale pursuant to subparagraph (4) of subsection A of this section or from any compromise, settlement or adjustment under § 275-50 of this Part, after deduction of the lawful expenses incurred, shall be paid into an account designated to hold the funds procured through the sale. Monies paid into this account shall be used for the costs of the respective Town departments administering the provisions of this article, including but not limited to, costs of seizing property, publication service and legal costs; any balance shall be used to fund traffic safety enhancements.

### Section III. 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 IV. Repeal

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

### Section V. 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.

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Adoption of "Yorktown Forfeiture of Vehicles in Connection with Drag Racing Law"			
Name of Action or Project: Town of Yorktown			
Project Location (describe, and attach a location map): Allowing for the forfeiture of vehicles used in connection with unlawful speed contests within the Town of Yorktown.			
Brief Description of Proposed Action: The Town Board of the Town of Yorktown recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Town of Yorktown, and to property within the Town, by the use of vehicles in unlawful speed contests. The purpose of this action is to deter illegal speed contests by permitting the seizure and forfeiture of vehicles involved in unlawful speed contests.			
Name of Applicant or Sponsor: Matthew J. Slater		Telephone: (914) 962-5722	
Address: 363 Underhill Ave		E-Mail:	
City/PO: Yorktown Heights		State: NY	Zip Code: 10598
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input type="checkbox"/>  <input type="checkbox"/>	YES <input type="checkbox"/>  <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?  b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/>  <input type="checkbox"/>	YES <input type="checkbox"/>  <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor/name: <u>Matthew J. Slater</u> Date: _____</p> <p>Signature: _____ Title: <u>Supervisor</u></p>		



## **SEAF QUESTION #1 NARRATIVE DESCRIPTION**

The Town Board of the Town of Yorktown recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Town of Yorktown, and to property within the Town, by the use of vehicles in unlawful speed contests. The purpose of this action is to deter illegal speed contests by permitting the seizure and forfeiture of vehicles involved in unlawful speed contests. There are no environmental resources in the municipality that will be affected by this action.