

# 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. 3 of the year 2020

A local law to amend Chapter 90 of the Code of the Town of Yorktown entitled "SMOKING" by deleting  
(Insert Title)  
the existing section 90-1 and 90-2, and enacting new sections 90-1, 90-2, 90-3, 90-4,  
90-5, and 90-6

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 90, entitled "SMOKING," of the Town Code, is hereby amended by deleting sections 90-1 and 90-2, and adding the following new sections 90-1, 90-2, 90-3, 90-4, 90-5 and 90-6:

### § 90-1. Purpose.

The purpose of this chapter is to create smoke- and vape-free zones on Town-owned property.

### § 90-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ELECTRONIC CIGARETTE or E-CIGARETTE** - An electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such a device.

**SMOKING** - Using lighted tobacco and tobacco products, clove cigarettes and similar substances, including, without limitation, cigarettes, cigars and pipes.

CONTINUED ON PAGE 2A

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

VAPING — Using an electronic cigarette (also known as an “e-cigarette”) or similar device.

**§ 90-3. Smoke- and vape-free zones.**

A. The following Town-owned areas, and any area owned by the Town of Yorktown located within 50 feet thereof, are hereby designated as smoke- and vape-free zones:

- (1) Town-owned buildings;
- (2) Picnic areas;
- (3) Sport areas and fields, including but not limited to tennis facilities, tracks, volleyball facilities, baseball fields and basketball courts;
- (4) Pool facilities;
- (5) Pavilions; and
- (6) Playgrounds.

B. Smoking and vaping are strictly prohibited in any smoke- and vape-free zone within the Town of Yorktown.

**§ 90-4. Enforcement.**

This chapter may be enforced by any police or peace officer, or by any person designated by the Town Board as an enforcement officer relative to this chapter. All Town of Yorktown Police Department officers shall be deemed enforcement officers under this chapter.

**§ 90-5. Penalties for offenses.**

Any person violating the provisions of this chapter shall be deemed to have committed a violation and shall be subject to criminal prosecution for such violation, with the fine imposed to be not less than \$50 and not greater than \$100 per violation. In addition, any individual in violation of this chapter may be removed from, and refused admission to, any area stated in § 90-3(A). Nothing contained in this chapter shall be construed to exempt an offender from any other prosecution or penalty otherwise provided by law.

**§ 90-6. Effect upon other laws.**

This chapter shall in no way limit or alter any restriction upon smoking imposed by any law of the State of New York.

Section I. 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 II. Repeal

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

Section III. 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. 3 of 2020 of the ~~(County)(City)(Town)(Village)~~ of Yorktown was duly passed by the Town Board on June 2, 2020, 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 \_\_\_\_\_ 20  , 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 *(Elective Chief Executive Officer\*)* 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 <sup>1</sup>\_\_\_\_\_ above.

*Diana L. Quast*  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: June 10, 2020

(Seal)

