

# 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. 8 of the year 2020

A local law to amend Chapter 178 of the code of the Town of Yorktown entitled "FRESHWATER  
(Insert Title)  
WETLANDS" by amending section multiple sections.

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 178 of the Town Code entitled "FRESHWATER WETLANDS" is amended by the amendment of §178-3 entitled "Findings of Fact" by renaming the existing subsection "B" to "C" and adding section "B" with regards to Trees and Woodlands to read as follows:

B. Trees and woodlands contribute to the health and functionality of wetlands through their vital role in helping to stabilize soil, reducing the risk of soil erosion and siltation in water courses and clogging of drainage channels. Additionally, tree roots provide channels which allow water infiltration, crucial to groundwater and reservoir recharge. Woodlands are especially important in carrying out these functions, not just because of the presence of trees, but because of the presence of canopy, shrub, and ground cover layers of vegetation. Therefore, protecting the integrity of woodlands and their valuable functions requires regulating the removal of any of these three layers in such communities.

CONTINUED ON PAGE 2A

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

(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. 8 of 2020 of the ~~(County)(City)(Town)(Village)~~ of Yorktown was duly passed by the Town Board on July 7, 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 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.

Section III.

Chapter 178 of the Town Code entitled "FRESHWATER WETLAND" is amended by the amendment of §178-6 entitled "Definitions" by adding the following text:

AGRICULTURE

Cultivating and harvesting products, including fish and vegetation, that are produced naturally in freshwater wetlands, and installing cribs, racks and other in- water structures for cultivating these products, but this does not include filling, dredging, peat mining or the construction of any buildings or any water regulating structures, such as dams.

PROTECTED WOODLAND

A woodland as defined herein that is 10,000 square feet or greater in area regardless of individual property boundaries.

WOODLAND

A contiguous area of vegetation consisting of trees as the dominant species along with an understory of shrubs and herbaceous ground cover. The driplines of the outermost trees shall define the boundary of the woodland. A protected woodland shall be deemed to exist even if it has been degraded by invasive plant species

WOODLAND DISTURBANCE

Any activity which alters the existing structure of a protected woodland. Alterations include the cutting or removal of any canopy trees, understory shrubs, herbaceous woodland ground cover as well as the removal of humus or duff from the ground

Section IV.

Chapter 178 of the Town Code entitled "FRESHWATER WETLANDS" is amended by the amendment of §178-9(B)(11) entitled "Prohibited, regulated and permitted acts" by replacing the text to read as follows:

(11) Within the same one-acre area, the cutting of more than three trees which are over eight inches in diameter at a point 4 1/2 feet from ground level within a twelve-month period.

Section V.

Chapter 178 of the Town Code entitled "FRESHWATER WETLANDS" is amended by the amendment of §178-10(A)(1)(f) entitled "Permit Applications" by retitling the current (f) to (g) and the current (g) to (h) and then adding the following text to read as follows:

(f) The location, boundaries and square footage of protected woodland on the site that will be disturbed.

Section VI.

Chapter 178 of the Town Code entitled "FRESHWATER WETLANDS" is amended by the amendment of §178-10(B)(1)(f)(4) "Permit applications" by retitling (4) to (5), (5) to (6), (7) to (8), (9) to (10), (10) to (11), (11) to (12), (12) to (13), (13) to (14), and (14)(g) to (14)(f) and replacing the text to read as follows:

[4] The location, boundaries and square footage of protected woodland that will be disturbed

Section VII.

Chapter 178 of the Town Code entitled "FRESHWATER WETLANDS" is amended by the amendment of §178-11 "Procedures for permits" by renaming subsection (3) to (4) and (4) to (5) and renaming (D) to (E) and (E) to (F) by adding subsection "(C)(3) and (D) to read as follows:

(3) The Tree Conservation Advisory Committee if the permit is for activity in a protected woodland.

-and-

D. In the case of permit applications for disturbance to a protected woodland, the approval authority shall forward any attached mitigation plan to the Conservation Board and Tree Conservation Advisory Committee.

Section VIII.

Chapter 178 of the Town Code entitled "FRESHWATER WETLANDS" is amended by the amendment of §178-17 "Mitigation policy and plan requirements" by renaming subsection (B) to (C), (C) to (D) and adding subsection "(B)" and subsection (C)(1) to read as follows:

B. Mitigation is required for disturbance in a protected woodland which is within a wetland and/or a wetland buffer and therefore requiring a permit under this chapter, however mitigation measures as detailed in the Preservation of Yorktown's Trees and Woodlands §270-10 may be used as mitigation in combination with required mitigation under Chapter 178 as appropriate to further the intents of §270. This in no way implies additional mitigation above that required in Chapter 178.

-and-

C. Mitigation plan.

(1) Upon a determination pursuant to Subsection A above that losses of wetland or wetland/watercourse buffers are necessary and unavoidable, the Town Board and Planning Board shall and the Town Engineer may, as approval authorities, require the preparation of a mitigation plan which shall specify mitigation measures that replace to the greatest extent possible, the functions of the original wetland and/or buffer in terms of type, ecological benefits, geographic location and setting and size.

Section IX. 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 X. Repeal

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

Section XII. 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. 8 of 2020 of the ~~(County)(City)~~(Town)(Village) of Yorktown was duly passed by the Town Board on July 7, 2020, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

**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 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.

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**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 1 \_\_\_\_\_ above.

*Diana L. Quast*

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

Date: July 16, 2020

