

# Local Law Filing

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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. 6 of the year 2019

A local law to repeal Chapter 270, Article I, Article II, and Article III and enact a new Chapter 270,  
(Insert Title)  
Article I entitled "Preservation of Yorktown's Trees and Woodlands," Article II "Town-wide  
Forest Management," Article III entitled "Arbor Day" of the Code of the Town of Yorktown

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 270, Article I, of the Code of the Town of Yorktown entitled "PRESERVATION OF YORKTOWN'S FORESTED ENVIROMENT", Article II, of the Code of the Town of Yorktown entitled "TOWN-WIDE FOREST MANAGEMENT", and Article III, of the Code of the Town of Yorktown entitled "ARBOR DAY", are hereby repealed in their entirety.

### Section III.

Chapter 270, Article I, of the Code of the Town of Yorktown entitled "PRESERVATION OF YORKTOWN'S TREES AND WOODLANDS", Article II, of the Code of the Town of Yorktown entitled "TOWN-WIDE FOREST MANAGEMENT", and Article III, of the Code of the Town of Yorktown entitled "ARBOR DAY" Article I of the Code of the Town of Yorktown is hereby enacted.

Continued on page 2A

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

ARTICLE I

PRESERVATION OF YORKTOWN'S TREES AND WOODLANDS

**§ 270-1. Enabling authority**

This chapter is enacted pursuant to the Municipal Home Rule Law and any and all applicable laws, rules and regulations of the State of New York; nothing contained herein shall be deemed to conflict with any such laws, rules or regulations.

**§ 270-2. Legislative intent**

A. This chapter regulates certain activities in the Town relating to tree removal with the goal of preserving both individual trees and woodlands including woodland canopy trees, understory shrubs and herbaceous ground cover. It is also the

Town's goal to accommodate reasonable development and protect landowners' rights to make aesthetic judgments concerning the lawful use of their property while still preserving trees and woodlands.

B. Preference for Preservation. Individual trees and woodlands provide a myriad of benefits as described below, therefore in order to avoid to the fullest extent possible, the aesthetic, environmental, and communal degradation that may result from irresponsible tree cutting and woodland disturbance, the Town Board declares its preference for preservation of individual trees and woodlands in order not to:

- (1) Create surface drainage problems;
- (2) Increase municipal expenditures to control drainage;
- (3) Impair the stability and value of nearby properties;
- (4) Adversely affect fundamental ecological systems; and
- (5) Create unsightly and barren conditions.

C. Need for Town-wide Forest Management Plan. A Town-wide Forest Management Plan is an important component of a tree preservation program. A Town-wide Forest Management Plan will further the overall goal of preserving the Town's trees and woodlands.

D. Responsible removal. Notwithstanding the above mentioned benefits and the preference for preserving individual trees and woodlands, the Town recognizes that responsible removal of trees may be desirable, necessary or unavoidable for purposes such as:

- (1) Avoiding hazardous conditions;
- (2) Maintaining the health of trees by removing damaged and/or diseased trees;
- (3) Managing woodlands for lawful purposes such as sustainable timber harvesting, recreation and management of biodiversity;
- (4) Maintaining the long-term viability of woodlands by managing the age and species distribution;
- (5) Protecting native tree species and woodland communities by the removal of invasive species;
- (6) Facilitating the operation of agricultural activities, and
- (7) Protecting landowners' rights to make aesthetic judgments about the lawful use of their own private property.

**§ 270-3. Findings of fact**

The Town Board finds that:

A. Benefits of individual trees and woodlands

- (1) Healthy trees provide oxygen, slow climate change by acting as a sink for carbon dioxide and mitigate other air pollution problems. Trees also help to stabilize soil, reducing the risk of soil erosion and siltation in watercourses and clogging of drainage channels. Additionally, trees and woodlands yield advantageous microclimatic effects, temper noise and provide wildlife habitat.
- (2) Tree roots provide channels which allow water infiltration, crucial to groundwater and reservoir recharge.
- (3) Trees have an intrinsic aesthetic value that contributes to the character and visual amenities of the Town. Trees soften the hard edges of developed areas, enhance scenic vistas, provide continuity in areas undergoing dynamic change, visually connect and define the character of neighborhoods, enhance privacy through visual buffering and enhance property values and the quality of life within the Town.
- (4) By virtue of their size, specimen trees make disproportional contributions to the ecological benefits of trees and woodlands, including provision of shade, oxygen and erosion control.
- (5) Specimen trees beautify our residential and commercial neighborhoods, provide a visible link to our history and are a critical reservoir of seeds for woodland regeneration, mitigating the impacts of over browsing by deer.
- (6) Trees and woodlands provide natural habitat for wildlife, promoting biodiversity and enhancing ecosystem stability and are important parts of integrated ecological systems, both terrestrial and aquatic.
- (7) Woodlands function as vital ecological communities not just because of the presence of trees, but because the presence of canopy, shrub and ground cover layers of vegetation. Therefore protecting the integrity of woodlands requires regulating the removal of any of these three layers in such communities.

**§ 270-4. Definitions**

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

**AGRICULTURAL ACTIVITY** – Activities carried out as a commercial operation that are traditionally associated with farming such as producing agricultural, horticultural, floricultural, vegetable and fruit products and the grazing and watering of livestock and poultry. The term “agricultural activity” does not include the construction of new structures associated with agricultural activities, nor does it encompass a garden accessory to a residential use.

**APPLICANT** – Any individual or individuals, firm, partnership, association, corporation, company, or other legal entity of any kind, including municipal corporations, government agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity before the approval authority or has an application pursuant to this chapter.

**APPROVAL AUTHORITY** – The Planning Board, Town Board, Zoning Board of Appeals or Town Engineer as specified in § 270-7 of this Chapter.

**ARBORIST** – A person who is (a) certified or accredited in tree care by a recognized professional association or tree care trade association such as, but not limited to, the International Society of Arboriculture and Tree Care Industry Association, or (b) is licensed as a Registered Consulting Arborist of the American Society of Consulting Arborists, or (c) is a graduate of an accredited college or university program in urban forestry or arboriculture, or (d) has a combination of at least five years of qualified experience and education.

**DIAMETER AT BREAST HEIGHT ("dbh")** – The diameter of the trunk of a tree measured in inches at a point 4½ feet above the base of the tree on the uphill side.

**DRIPLINE** – An imaginary vertical line that extends downward from the outermost tips of the tree branches to the ground.

**ECOLOGIST** – A person with a graduate degree in ecology, conservation biology or a related field from an accredited college or university.

**FORESTER** – A person (a) certified as a forester by a recognized forest-related professional or trade association, or (b) certified by the State Department of Environmental Conservation as a cooperating forester or watershed qualified forester, or (c) has received a B.S. or higher degree in forestry from an accredited college or university.

**FOREST STEWARDSHIP PLAN** – A written forest management plan which follows the guidelines specified by the New York State Department of Environmental Conservation's Forest Stewardship Program and is approved by the New York State Forester, through the Regional Forestry Office, and by Yorktown's Conservation Board and on file with the Town Clerk. Activities pursuant to a Forest Stewardship Plan as here defined shall not be deemed land conversion.

**HAZARDOUS CONDITION** – A tree or portion of a tree that poses a danger to life, health, property or natural resources.

**LAND CONVERSION** – The disturbance of 1,000 square feet or more of protected woodland and the subsequent permanent alteration of the site such that a woodland can no longer regenerate on the site in its altered state. Such permanent alteration may include, but is not limited to paving or installation of other impervious surfaces, soil removal, soil compaction, or intentional flooding. Establishing a garden or orchard, planting grass, cutting trees, removing understory vegetation are examples of activities that do not constitute land conversion in that the site is not permanently altered, and there is the potential for woodland regeneration.

**LANDSCAPE PLAN** – A plan that specifies plantings and their locations as a requirement of a land use approval from an Approval Authority. An approved site plan that specifies trees and shrubs as part of its development shall constitute a "landscape plan" for purposes of this Chapter.

**MITIGATION PLAN** – A written plan prepared by a professional whose qualifications are acceptable to the approval authority and approved by the approval authority. The goal of such plan is to replace the functions carried out by the protected trees and woodlands affected by the proposed activity.

**MITIGATION RATIO** – The rate at which replacement of lost trees may be required as part of a mitigation plan. The replacement rate expressed in base terms of Diameter at Breast Height (dbh) shall be calculated by dividing the dbh of each lost tree by the average dbh of replacement trees. The result shall be the number of replacement trees required to be planted as compensation for each lost tree.

**NORMAL MAINTENANCE** – Activities such as removal of leaf litter, removal of branches sticks and other woody matter, pruning, trimming or otherwise preserving live trees, where possible employing Best Management Practices recommended by the American National Standards Institute (ANSI) Standards.

**PROTECTED TREE** – A tree as herein defined having a dbh of 8 inches or greater, or any street tree as herein defined.

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

**REMOVE or REMOVAL**—Cutting down, bark removal, use of chemical agents, or other damaging activity that a reasonable person would understand is likely to result in the death of a tree.

**REGULATED BUFFER ZONES ON RESIDENTIAL PROPERTY** – On lots of one acre or less, five feet from the side or rear yards as measured inward from the property line.

**SPECIMEN TREE**—Any tree with a dbh of 24 inches or more.

**STREET TREE** – A tree whose base is at least 50% in the land enclosed by property lines on either side of a public right-of way.

**TOWN-WIDE FOREST MANAGEMENT PLAN** – A plan developed under the direction of the Tree Conservation Advisory Commission and approved by the Town Board which shall govern the maintenance and preservation of trees, including street trees, and woodlands on Town-owned land.

**TREE** – A perennial woody plant, either deciduous or coniferous, together with its root system having a well-defined stem or trunk or a multi-stemmed trunk system, a more or less well-defined crown, and a mature height of at least eight feet. The term tree for the purposes of this chapter, shall not include trees in containers or nursery stock trees maintained for resale or woody vines.

**TREE BANK** – Town-owned lands or Town right-of-way lands to be designated by resolution of the Town Board and at the recommendation of the Tree Conservation Advisory Commission as receiver sites for off-site mitigation plantings or other activities identified in an approved mitigation plan that satisfy mitigation requirements which cannot be met on site.

**TREE BANK FUND** – A dedicated capital reserve fund to be established by and administered in accordance with a resolution of the Town Board providing for the payment of fees as part of an approved mitigation plan where tree replacement or other mitigation measures cannot be achieved, as well as payments for fines received pursuant to this chapter. Monies in the Fund shall be made available only for use on town-owned land and for initiatives that conform to and further the intent, findings and goals of this Chapter.

**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.

#### **§ 270-5. Permit Not Required**

No tree removal permit shall be required for the following activities:

- (1) Removal of any tree which is dead, hazardous, damaged beyond salvaging or in an advanced state of decline, or may interfere with overhead utility lines.
- (2) Removal of invasive species as designated by the Lower Hudson Partnership for Regional Invasive Species Management in Species Index Tiers 1-4.
- (3) Normal maintenance of trees, such as bracing, trimming or pruning less than 20% of the tree

crown area.

- (4) Removal of trees within 10 feet of any component of an existing or approved septic system as required by the Westchester County Health Department, or within 10 feet of a subsurface sewer structure.
- (5) Removal of trees in accordance with a specific forest stewardship plan as defined in this chapter and on file with the Town Clerk, or as part of an Agricultural Activity
- (6) Tree removal that is part of an approved landscape plan as defined in this chapter .Trees removed or proposed to be removed that are part of an approved landscape plan shall be subject to regulations under Chapters 195 and 300.
- (7) Tree removal as part of wildlife habitat management in accordance with a specific forest stewardship plan as defined in this chapter and on file with the Town Clerk.
- (8) Disturbance, excepting land conversion, of less than 10,000 square feet in a protected woodland.
- (9) Normal maintenance to protected woodlands to a depth of 12 feet from the border or edge of lands normally used and maintained on residential property as lawn or other common outdoor uses associated with residential properties and which is not woodlands as defined herein.
- (10) Actions which require a permit under Chapter 248: Stormwater Management and Erosion and Sediment Control that disturb an area of at least 5,000 square feet and less than 10,000 square feet in a protected woodland, however mitigation shall be required as pursuant to §270-10 of this Chapter and shall be attached as conditions to the Stormwater Management and Erosion and Sediment Control permit. Notwithstanding a permit requirement under Chapter 248, Chapter 270-6 still applies to trees not in a protected woodland.
- (11) Disturbance in a protected woodland which is within a wetland and/or a wetland buffer and therefore requires a permit under Chapter 178: Freshwater Wetlands. In such cases, mitigation for the woodland disturbance is required, however mitigation measures as detailed in 270-10 of this chapter may be used as mitigation in combination with required mitigation under Chapter 178 as appropriate to further the intents of this chapter. This in no way implies additional mitigation above that required in Chapter 178. Notwithstanding a permit requirement under Chapter 178, Chapter 270-6 still applies to trees not in a protected woodland.
- (12) Tree removal for a purpose not regulated pursuant to Subpart 270-6 below and not otherwise prohibited.

#### § 270-6. Permit Required

- A. The provisions of this section shall apply to all property in Town, whether privately owned, publicly owned, or held in common by homeowners' associations.
- B. The following activities require a tree removal permit:
  - (1) In a calendar year, the removal of ten (10) protected trees or more, in an area of 10,000 square feet or more.
  - (2) In a calendar year, removal of more than two (2) protected trees within a regulated buffer zone.

- (3) Removal of any specimen tree
- (4) Land conversion
- (6) A woodland disturbance equal to or greater than 10,000 square feet or 6 percent of the area of protected woodlands existing on a parcel of land, whichever is greater, notwithstanding any requirement for a permit under Chapter 248: Stormwater Management and Erosion and Sediment Control.

**270-7. Approval authority**

The approval authority under this chapter shall be as follows:

- A. The Planning Board shall be the approval authority with respect to an application that requires the issuance of another permit or approval from the Planning Board.
- B. The Town Board shall be the approval authority with respect to an application under this chapter that requires the issuance of another permit or approval from the Town Board and for applications for disturbance of more than 20,000 square feet in a protected woodland which do not require an approval or permit from the Planning Board or Zoning Board.
- C. The Zoning Board of Appeals shall be the approval authority with respect to an application that requires the issuance of another permit or approval from the Zoning Board of Appeals.
- D. The Town Engineer shall be the approval authority for administrative permits for regulated actions, as set forth in §270-6, as follows
  - (1) Regulated actions which do not require other permits or approval from the Town Board, Planning Board or Zoning Board of Appeals

**§270-8. Permit procedures**

- A. Applications and required information
  - (1) Each application for a permit under this Chapter shall consist of the following information and/or documents
    - (a) An application form as provided by the Planning or Engineering Departments
    - (b) A plan or sketch showing proposed tree removals and proposed mitigation, where required, as detailed in §270-10
    - (c) An application fee in the amount set forth in the Master Fee Schedule
- B. Administrative Permits
  - (1) Administrative permits should be accompanied by the following additional information.
    - (a) The required plan or sketch should show locations of buildings and other features of the property.
    - (b) If the application is for activity in a protected woodland, an aerial photograph showing the location of the property and the woodlands on the adjoining properties.
    - (c) Whether tree stumps are to be left in place or removed.
    - (d) If additional vegetation such as shrubs and natural ground cover will be removed.

- (e) A statement that each protected tree to be removed has been designated, with paint or other distinctive means, at two points so as to be readily visible to the approving authority and the tree remover. One point shall be low enough on the protected tree so as to be visible on the stump after the tree is removed.

(2) Review of application by Town Engineer.

- (a) The Town Engineer shall review the application to determine if it is eligible for review under the provisions of § 270-7 D.
- (b) Except as noted below, the Town Engineer shall refer any application, along with any mitigation plan attached to the application, to the Tree Conservation Advisory Commission and Conservation Board for review and report. The date of the referral shall be deemed to be the date of the first regularly scheduled monthly meeting of either board at which the referred application is received from the Town Engineer.
- (c) In the event that an application has been referred to the Tree Conservation Advisory Commission and/or the Conservation Board, the board/s shall report back to the Town Engineer within 15 days of such referral. Failure by the Tree Conservation Advisory Commission or Conservation Board to report back within the specified time period shall be interpreted by the Town Engineer as indicating no objection to the application.
- (d) For applications involving activity in a protected woodland, the Town Engineer shall refer the application to the Tree Conservation Advisory Commission and Conservation Board for review and report. The date of the referral shall be deemed to be the date of the first regularly scheduled monthly meeting of either board at which the referred application is received from the Town Engineer.
- (e) For any application that involves activity in a protected woodland, the Town Engineer shall require the applicant to submit a mitigation plan pursuant to §270-10.

(3) Action by Town Engineer

The Town Engineer shall make a determination to approve, approve with modifications or disapprove the issuance of a permit in accordance with the provisions §270-9 within ten (10) days of the receipt of reports from the Tree Conservation Advisory Commission and/or Conservation Board.

(4) Appeal and review .

Any decision or order of the Town Engineer made pursuant to or within the scope of this Chapter may be reviewed by the Town Board at the request of the applicant provided that such review is commenced by the filing of a notice of review with the Town Board within 30 days after filing of such order or decision.

C. Non-administrative permits.

- (1) Unless otherwise provided in the application before the Approval Authority, Non-Administrative permits should be accompanied by a plan which shall be certified by an engineer, architect, land surveyor, or landscape architect licensed in the State of New York, or by a forester, arborist or ecologist, drawn to a scale no less detailed than one inch equals 50 feet, and showing the following:
  - (a) The area of disturbance proposed for tree removal and its relation to property lines, roads, buildings, both existing and proposed, and watercourses within 250 feet of the property line.
  - (b) Within the proposed area of disturbance the location of existing protected

trees and/or protected woodlands.

- (c) Within the proposed area of disturbance, the number, location and species of protected trees to be removed.
- (d) The square footage and boundaries of protected woodland that will be disturbed.
- (e) An aerial photograph showing the location of the property and contiguous woodlands on the adjoining properties.
- (f) If proposed tree cutting is in stages, the location and timing of each stage.
- (g) Any additional information reasonably required by the approval authority.

(2) Referral.

- (a) The approval authority shall refer an application, along with any associated mitigation plan, submitted to it pursuant to this chapter to the Conservation Board and the Tree Conservation Advisory Commission and may also refer the application to any other Town advisory commissions or boards for review and reporting. The date of referral (after receipt of the application from the approval authority) shall be deemed to be the date of the first regularly scheduled meeting of the advisory group or groups at which the application is received
- (b) The Conservation Board and Tree Conservation Advisory Commission and any other Town advisory commission or board shall report back within 30 business days of referral. Failure by such boards or commissions to report back within the specified time period shall be interpreted by these approval authorities as indicating no objection to the application.
- (c) The approval authority may refer any application to a consultant hired by the Town and paid for by the applicant for the purpose of providing an expert assessment of the existing trees and woodlands on the site proposed for development, including but not limited to an assessment of the health, quality and function of the trees and woodlands.
- (d) Prior to final action on a tree permit for which the Zoning Board of Appeals is the approval authority, the Zoning Board of Appeals shall refer the principal application, including the application for a tree permit, to the Planning Board for its report and for the development of a mitigation plan, where required. The Planning Board's recommendations and the mitigation plan shall be incorporated in the Zoning Board of Appeal's final decision on the principal application and application for a tree permit.

(3) Public hearing

In the case of non-administrative permits sought in conjunction with a site plan, subdivision, parking plan or special permit approval, the approval authority shall open a public hearing on the requested tree permit concurrently with the public hearing on the principal application. Public notice and notice to interested parties of the tree permit hearing shall be provided, along with the notice required by the Town Code of the Town of Yorktown for the hearing on site plan, subdivision, parking plan or special permit approval.

(4) Action by the approval authority.

The approval authority shall review said application to ensure conformity with the requirements of this Chapter. A determination shall be made to approve, approve with modifications or disapprove the issuance of such permit simultaneously with the determination by the approval authority of any other permit or approval for which application was made.

(5) Appeal and review

Any final determination, decision or order of the Planning Board or Town Board pursuant to or within the scope of this chapter may be judicially reviewed pursuant to Article 78 of the Civil Practice Law and Rules in the Supreme Court for Westchester County.

C. Emergency permits.

- (1) Nothing in this chapter shall be deemed to conflict with provisions of the Town Code that allows an otherwise regulated activity to occur without a permit under emergency conditions.
- (2) For projects carried out in response to an emergency, all procedural requirements of this chapter related to application processing are waived, except as provided in this section.
- (3) Whenever prior notice to the approval authority is not possible, the Town Engineer must be notified by the party taking emergency action within two business days after commencement of the action. Notification must be in written or electronic form. This notification must be followed within two business days by submission of the following information to the Town Engineer:
  - (a) A description of the action that was taken.
  - (b) Location map and details of the tree removal that took place.

**§ 270-9 Standards for approval**

- A. Permits shall be issued by the approval authority pursuant to this Chapter only if the approval authority finds that the proposed regulated activity is consistent with the policies and goals of this chapter as stated herein.
- B. Natural vegetation, excepting invasive species as specified in §270-5 (2), shall be preserved and protected wherever possible and based on best management practices that reflect the experience and most up-to-date standards of practice as accepted by professional associations in the field.
- D. In granting, denying or conditioning any application for a permit required by this chapter, the approval authority shall evaluate the proposed activity, its purpose, and available alternatives and shall determine that the impact of the proposed activity upon, including but not limited to, public health and safety, soil erosion, wildlife habitat, and drainage, will not be detrimental and shall be in accordance with the following additional standards, considerations and conditions:
  - (1) Trees shall be felled so that erosion is avoided. All tree-cutting debris shall be kept at least 20 feet from all public roads, rights-of-way, streams and wetlands.
  - (2) Consideration shall be given to preserving protected trees and protected woodlands where feasible and practical.

**§270-10 Mitigation**

- A. Administrative permits

- (1) Mitigation is required for administrative permits for disturbance in protected woodlands.
  - (2) Mitigation is not required for administrative permits for §270-6 (1), (2), (3) or (4).
  - (3) Mitigation required under administrative permits shall be limited to on-site mitigation. If on-site mitigation is not feasible and therefore off-site mitigation is deemed necessary, the permit application shall be referred to the Town Board and shall be processed and approved thereafter as a non-administrative permit.
- B. Non-administrative permits
- (1) All non-administrative permits require mitigation
- C. Whenever feasible, for the purposes of mitigation the following approaches shall be preferred:
- (1) On-site mitigation
  - (2) Tree replacement
    - (a) If tree replanting is the only mitigation measure required, the total number of replanted trees shall be determined by the mitigation ratio as herein defined.
  - (3) In the case of tree removal in a regulated buffer as defined by this Chapter, consideration shall be given to mitigating the impact of the tree removal to adjacent property owners and to mitigating any impact on the visual character of the area.
  - (4) Use of native species of trees, understory shrubs and herbaceous ground cover if replanting is required.
  - (5) Replacement of the functions (as described in §270-3) lost due to tree removal and/or the disturbance of woodlands.
- D. Mitigation plans
- (1) The approval authority shall require the preparation of a mitigation plan, prepared by a professional whose qualifications are acceptable to the approval authority
  - (2) In the course of commenting on and reviewing applications referred by the approval authority, the Conservation Board and Tree Conservation Advisory Commission shall also review and comment on any attached mitigation plans.
  - (3) The mitigation plan shall address and compensate for the impact of the removal of protected trees and removal or disturbance of protected woodlands.
  - (4) A mitigation plan may include, but not be limited to, the following measures, either singly or in combination:
    - (a) Planting replacement trees, understory shrubs and or herbaceous ground cover on-site and/or on Town-owned land, Town right-of-way lands or other public land subject to the owner's permission pursuant to this Chapter.
    - (b) Removal of invasive species from the site, and/or on Town-owned land, Town right-of-way lands or other public land subject to the owner's permission.
    - (c) Installation of fencing designed to prevent deer from overgrazing existing or newly-planted or naturally regenerating trees and shrubs ("deer exclosures"), consistent with Town regulations, and so long as wildlife corridors are not obstructed.

- (d) Planting new trees and/or shrubs along stream corridors on the site, and/or on Town-owned land, Town right-of-way lands or other public land subject to the owner's permission.
- (e) Implementation of other measures on Town-owned land pursuant to an approved Forest Management Plan.
- (f) Payment into the Tree Bank Fund. In lieu of replacing a lost protected tree or disturbance to a protected woodland, the payment shall be \$100 for every protected tree removed and \$300 for every 5,000 square feet of protected woodland disturbed.

**§ 270-11. Permit duration**

- A. An administrative permit shall expire upon completion of the permitted activity or one year from the permit's issuance, whichever shall occur first. Applications for permit renewals may be submitted to the Town Engineer no less than 30 calendar days prior to the date of expiration. A renewal extension of greater than one year is not permitted.
- B. If the non-administrative permit is approved as part of the approval for a subdivision, site or parking plan or special permit then the non-administrative permit shall expire upon the expiration of the principal approval, except that if the approval authority extends the principal approval, the tree removal permit will be likewise extended for the same time period.
- C. In the event a permit has expired and is past the 30 calendar days within which application for an extension is allowed, an applicant seeking renewal will be required to refile the permit application and pay all applicable fees as if no prior permit had been issued.
- D. The approval authority may revoke or suspend a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the permit.

**§ 270-12 Security**

In order to ensure the full and faithful completion and compliance with the conditions set forth in non-administrative permits, the approval authority shall require the applicant to provide, prior to undertaking any tree removal, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees the satisfactory compliance with the terms of the permit and names the Town of Yorktown as beneficiary. The security shall be in an amount to be determined by the approval authority based on the approved tree permit, including, but not limited to any mitigation measures that are conditions of the permit. The performance guarantee shall remain in force until the surety is released from liability by the Town of Yorktown upon certification by the Town that the conditions of the permit have been satisfactorily completed.

**§ 270-13 Inspection and monitoring of activities.**

- A. The approval authority may inspect or cause to be inspected by its designee or representative activities undertaken pursuant to a permit so as to ensure satisfactory compliance with its terms and conditions.
- B. The approval authority may require that the activities undertaken pursuant to a permit be monitored and/or supervised by an arborist, including but not limited to the provision of written status reports at specified intervals with respect to the activities undertaken pursuant to the permit.

**§ 270-14 Permit fee**

A Permit fee in an amount as set forth in the Master Fee Schedule

**§ 270-15. Enforcement; penalties for offenses**

A. Administrative sanctions.

(1) Stop-work order.

- (a) The Town Engineer or designee may post a stop-work order for any tree removal or woodland disturbance if any of the following conditions exist:
  - [1] Any tree removal or woodland disturbance regulated under Chapter 270 is being undertaken without a permit.
  - [2] Any of the conditions of the permit are not being met.
- (b) The stop-work order shall be effective immediately, shall state the specific violations and shall state the conditions under which work may be resumed.
- (c) In the case of work for which there is a permit, the stop-work order shall be mailed by first class mail to the address listed by the permittee on the permit. In the case of work for which there is no permit, the stop-work order shall be mailed to the person listed as owner of the property by the Town Assessor on the tax roll. Additionally, a copy of a stop-work order shall be posted on the site of the subject activity in reasonable proximity to a location where the tree removal and/or woodland disturbance is taking place.
- (d) If the permittee or person violating this Chapter does not immediately cease the activity or comply with the tree permit or permit conditions upon receipt of the stop-work order, the approval authority may revoke the permit or any other permit issued to the permittee by the Town for the same property.
- (e) If the owner or person/s using the land where no permit has been issued does not cease the tree and/or woodland removal activity, the approval authority shall request the Town Attorney to obtain injunctive relief from a court of competent jurisdiction.

(2) Restoration.

The Town Board shall have the authority, following a hearing and on written notice to the violator, to direct the violator to restore the affected area/s to their condition prior to violation, insofar as that is possible, within a reasonable time and under the supervision of the approval authority or its designate. In the event the approval authority determines that the restoration shall require the planting of replacement trees, the trees must be a minimum of 2½ inch caliper. Restoration shall include any measures outlined in § 270-10 D (4) as deemed appropriate by the Approval Authority except that all restoration measures shall be done on-site.

Additionally, if there is unpermitted disturbance of a protected woodland, special consideration shall be given to requiring the restoration of soils and understory species (herbs and shrubs) on the affected site, as well as tree replacement.

Further, the approval authority shall require an adequate bond in a form and amount approved by the approval authority to ensure the restoration of the affected area. Any such order of the approval authority shall be enforceable in an action brought in any court of competent jurisdiction. Any order issued by the approval authority pursuant to this subsection shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

- (3) The Town Engineer or his designee shall enforce the provisions of this chapter and when necessary issue and serve appearance tickets in connection with any violation of this chapter.

B. Civil damages.

Any person who undertakes or procures any person to undertake any tree removal or woodland disturbance without the prior issuance of a permit hereunder or who otherwise violates any provision of this chapter or any permit restriction adopted by the approval authority pursuant to this chapter shall, in addition to any criminal liability, be liable for any civil damages that might have been caused by such violation.

C. Criminal sanctions.

- (1) Removal of protected trees in violation of any provision of this Chapter
  - (a) Removal of any protected tree, outside of a protected woodland shall be punishable by a fine of \$1,000 per protected tree for the first offense.
  - (b) For a second and each subsequent offense within a period of three (3) years, the maximum fine shall be twice that applicable to the first offense or a term of imprisonment up to 15 days, or both.
- (2) Disturbance of protected woodlands in violation of any provision of this Chapter
  - (a) For a woodland disturbance that constitutes a land conversion as defined in this Chapter, the penalty shall be \$2,500 for the first offense as the disturbance resulted in the permanent loss of the protected woodland.
  - (b) For a disturbance greater than 5,000 square feet in a protected woodland the penalty shall be \$1,000 for every 1,000 square feet of disturbance or part thereof for the first offense.
  - (c) For a second and each subsequent offense within a period of three (3) years, the maximum fine shall be twice that applicable to the first offense or a term of imprisonment up to 15 days, or both.
  - (d) If the disturbance is a violation of a permit issued pursuant to Chapter 178 or Chapter 248 of the Code of the Town of Yorktown, the penalties of this Chapter shall be applied.

- D. In addition to the remedies specified above, no building permit or permanent certificate of occupancy shall be issued to any lot for which a stop-work order, or notice of violation has been issued until such violation has been remedied by restoration performed to the reasonable satisfaction of the approval authority, or until such notice of violation has been dismissed by a court of competent jurisdiction.

## ARTICLE II: TOWN WIDE FOREST MANAGEMENT

### § 270-16. Town-wide Forest Management Plan

- A. The Town of Yorktown Tree Conservation Advisory Commission shall cause the development of a Town-wide Forest Management Plan based on the goals and regulatory criteria set forth in this

chapter. This Plan shall govern the sustainable use of trees and woodlands located on public lands for commercial, conservation or recreational purposes, including but not limited to wood harvesting, biodiversity enhancement, bird watching, hiking, wildflower appreciation, picnics, hunting, trapping, water quality protection and the prevention of erosion and flooding.

- B. The Town-wide Forest Management Plan shall include
- (1) Standards and specifications for the maintenance, protection and re-establishment of Town-owned woodlands and trees, including street trees.
  - (2) Recommendations to the Town Board regarding the development of tree banks and the use of funds in the Tree Bank Fund as defined in this chapter.
  - (3) A prioritized inventory of specific areas of the Town in which off-site mitigation, as described in this chapter, may be accomplished.
- C. The Town-wide Forest Management Plan shall be approved and adopted by the Town Board, and its implementation overseen by the Tree Conservation Advisory Commission.
- (1) An annual report which shall describe the status of implementation of the Forest Management Plan shall be presented to the Town Board.
- D. The Yorktown Tree Conservation Advisory Commission shall conduct public outreach and education. This shall be in form and manner required for the most effectiveness and shall include but not be limited to educational pamphlets, informational seminars, online information and presentations. The material shall be informative on the benefits and functions of trees and woodlands, ecology, and on the regulations, processes and intent of this chapter.
- E. Tree Bank Fund
- Monies in the Fund shall be made available only for use on Town-owned land and for initiatives that conform to and further the intent, findings and goals of this Chapter.

### ARTICLE III: Arbor Day

#### § 270-17. Designation

To recognize the benefits trees provide, the last Friday of every April shall be designated Arbor Day in the Town. Arbor Day shall be used to facilitate tree planting within the Town.

#### § 270-18. Arbor Day ceremonies

The Planning Department shall coordinate and conduct Arbor Day ceremonies designed to facilitate tree planting within the Town, particularly along Town roads, in Town parks and open spaces and in or around wetlands.

### ARTICLE IV

#### § 270-20 Severability

The invalidity of any work, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

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. 6 of 2019 of the ~~(County)(City)(Town)(Village)~~ of Yorktown was duly passed by the Town Board on December 10, 2019, 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 1 above.

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

Date: *December 16, 2019*

(Seal)