

# How to Preserve Yorktown’s Trees and Forests: Two Very Different Options

## By Susan Siegel

The local law protecting neighborhood trees and wooded areas throughout Yorktown is about to change.

A bipartisan Town Board adopted Yorktown’s first Tree Ordinance in December, 2010. The law regulates both the removal of individual trees and the clear cutting of larger wooded areas on both private and town-owned land. On September 20th, the current Town Board will be holding a public hearing to repeal the 2010 law and replace it with a new tree law.

According to the current Town Board, a new law is needed because the 2010 tree law 1) hasn’t accomplished anything, 2) is too burdensome for the town, homeowners and developers, and 3) leads to disputes between neighbors.

Although the stated goal of both laws is the same, the “Preservation of Yorktown’s Forested Environment,” there are several major differences between the two laws and how they go about achieving their goal. Many of the differences will affect homeowners, neighborhood character, and the character of the town as a whole.

The chart below summarizes some of these differences. Omitted from the chart are provisions that are, for the most part, similar in both laws. For example, both laws deal with the creation of a Tree Bank and a town-wide forest management plan for town-owned land.

The Town Board or Planning Board **is** responsible for approving tree permits (the “approval authority”) depending on which board has jurisdiction based on other local laws. For all other permits, the town engineer is the approval authority. For the purpose of this chart, when appropriate, the term “town” is used to signify the approval authority.

For the full text of both laws, visit the town web site, [www.yorktownny.org](http://www.yorktownny.org). For the current law, click “Town Code Online” under the “Business” link and scroll down to Chapter 270: Trees. For the proposed law, click “Town Board” under the “Government” link, and then “Pending Legislation.”

Issue	Current Tree Law	Proposed New Tree Law
<b>What does the Tree Law cover?</b>	<ul style="list-style-type: none"> <li>• Trees on both private and town-owned land.</li> <li>• “Protected trees”: 6”or greater in diameter and certain rare species.</li> <li>• Woodlands: contiguous 5,000 sq. ft. (¼ acre) or more with a combination of trees, shrubs and ground cover.</li> </ul>	<ul style="list-style-type: none"> <li>• Trees on private land only; town-owned land, approximately 4,000 acres, is specifically exempted.</li> <li>• “Protected trees”: 8”or greater in diameter</li> <li>• Street trees on rights of way.</li> </ul>
<b>When does a homeowner need a permit to remove</b>	<ul style="list-style-type: none"> <li>• <b>Individual trees</b> <ul style="list-style-type: none"> <li>○ More than 10 protected trees in 12 consecutive</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Individual trees</b> <ul style="list-style-type: none"> <li>○ 10 protected trees in more than 10,000 sq. ft. (¼</li> </ul> </li> </ul>

<p><b>trees on his property?</b></p>	<p>months in a 5,000 sq. ft. (¼ acre) area.</p> <ul style="list-style-type: none"> <li>○ Protected trees on slope greater than 15%</li> <li>● <b>In buffer zones</b>, the side, rear and front yards between properties. Size of zone varies by lot size.</li> <li>○ More than 2 trees in 12 consecutive months.</li> <li>● <b>In woodlands</b> <ul style="list-style-type: none"> <li>○ Removing more than 30% of any combination of trees, shrubs or ground cover.</li> <li>○ Any land conversion: the permanent alteration of the site so that it can no longer support tree growth, e.g., a pool or any paved surface.</li> </ul> </li> </ul>	<p>acre). Does not include a time frame.</p> <ul style="list-style-type: none"> <li>○ Any tree required to be planted as part of an approved site plan and/or subdivision plan.</li> <li>○ Any tree with diameter of 24" or greater.</li> <li>○ 10 protected trees in an area of 2,000 sq. ft. or more which includes, in total or part, a 15% slope or greater.</li> <li>● <b>In buffer zones</b> <ul style="list-style-type: none"> <li>○ There is no buffer zone between properties.</li> </ul> </li> <li>● <b>In woodlands</b> <ul style="list-style-type: none"> <li>○ Only when above criteria for removing individual trees is met. Otherwise, no special protections for woodlands.</li> </ul> </li> </ul>
<p><b>When is a permit NOT necessary?</b></p>	<p>For the most part, these provisions are similar in both laws</p> <ul style="list-style-type: none"> <li>● Removal of dead, diseased, dying, or uprooted trees.</li> <li>● Removal of <b>trees creating a</b> hazardous condition.</li> <li>● Removal of invasive species.</li> <li>● Normal tree maintenance.</li> <li>● Emergency situations.</li> </ul> <ul style="list-style-type: none"> <li>● If the property has an approved forest management plan or forest stewardship plan.</li> </ul>	<ul style="list-style-type: none"> <li>● Removal of fewer than 10 protected trees within 15 ft. of an existing building or approved addition.</li> </ul>
<p><b>What are the tree permit requirements for developers and commercial properties?</b></p>	<ul style="list-style-type: none"> <li>● Submission of a formal plan, certified by an engineer or other licensed professional, and drawn to a specific scale, detailing the number and species of trees to be removed, as well as the additional removal and/or damage to shrubs and ground cover.</li> </ul> <p>(Note: The town's regulations governing new developments require that subdivision and site plans show all trees with a 6" diameter.)</p>	<ul style="list-style-type: none"> <li>● No formal plan is required, but the application must include the number and location of trees to be removed and their estimated size and species.</li> </ul>
<p><b>How much does a tree permit cost?</b></p>	<ul style="list-style-type: none"> <li>● No fee for 2011-2012. After that, town may charge a fee. (None has ever been imposed.)</li> </ul>	<ul style="list-style-type: none"> <li>● No provision.</li> </ul>
<p><b>Are there requirements to compensate for environmental damage</b></p>	<ul style="list-style-type: none"> <li>● Requires a mitigation plan, prepared by a qualified professional, when 30% of a woodland is removed.</li> <li>● On-site mitigation is preferred. Off-site mitigation is</li> </ul>	<ul style="list-style-type: none"> <li>● Approval authority decides if mitigation is required.</li> <li>● Mitigation addresses only tree removal and there is no threshold triggering the need for mitigation. A tree</li> </ul>

<p><b>stemming from tree removal (mitigation measures)?</b></p>	<p>permitted only in cases where an on-site alternative is not feasible.</p> <ul style="list-style-type: none"> <li>• Consideration must be given to mitigating the impact of tree removal on adjacent properties and the impact on the visual character of the area.</li> <li>• When mitigation includes a payment into the town’s Tree Bank in lieu of tree replacement, there are standard fees for removal of trees and woodlands.</li> </ul>	<p>replacement plan may be required.</p> <ul style="list-style-type: none"> <li>• Mitigation measures must be based on both the size and function of the trees to be replaced.</li> <li>• Includes payment into the town’s Tree Bank in lieu of tree replacement, but the amount of the payment is decided on a case by case basis.</li> </ul>
<p><b>Does the Conservation Board get to weigh in on tree permit applications?</b></p>	<ul style="list-style-type: none"> <li>• Applications must be referred to the Conservation Board and may be referred to other town advisory boards.</li> <li>• Town may hire a consultant to review the application; applicant pays the cost.</li> </ul>	<ul style="list-style-type: none"> <li>• Applications may be referred to the Conservation Board and the Tree Conservation Advisory Commission at the discretion of the approval authority.</li> <li>• Town may hire an expert to assess the forest, but there is no provision for how the expert will be paid.</li> </ul>
<p><b>How do I know if my neighbor has applied for a tree permit?</b></p>	<ul style="list-style-type: none"> <li>• No specific provisions, but if other town laws require the Planning Board or Town Board to hold a public hearing, then adjoining property owners will be notified about the hearing.</li> </ul>	<ul style="list-style-type: none"> <li>• Certified letter sent to adjoining property owners and those across any street adjoining the subject property.</li> <li>• For applications to the town engineer: property owners have 20 days to submit written comments.</li> <li>• For applications before the Planning Board or Town Board: property owners can speak at the required public hearings and submit written comments until the close of hearings.</li> </ul>
<p><b>If I’m denied a tree permit, what appeal and review procedures are available to me?</b></p>	<ul style="list-style-type: none"> <li>• Decision by town engineer to deny a permit may be appealed to Town Board.</li> <li>• Decision by Planning Board or Town Board to grant or deny a permit may be appealed by filing an Article 78 lawsuit.</li> </ul>	<ul style="list-style-type: none"> <li>• Any decision by town engineer or Planning Board may be reviewed by the Town Board.</li> <li>• Any decision may be appealed by filing an Article 78 lawsuit.</li> </ul>