(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 of North Elba
~~Village~~

Local Law No. 4 of the year 19 99

A local law adopting the Town of North Elba Noise Ordinance
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~
Town of North Elba as follows:
~~Village~~

TOWN OF NORTH ELBA NOISE ORDINANCE

SECTION 1. Findings, Intent.

The Town Board determines that the creation of excessive and unreasonable noise within the Town limits of the Town of North Elba is a detriment to the comfort, convenience, safety, health and welfare of the citizens of and visitors to the Town, and that persons within the Township are entitled to have maintained noise levels which are not a detriment to life, health, welfare and enjoyment of property. Therefore, the Town Board intends hereby to prohibit all excessive and unreasonable noise from all sources subject to its police and regulatory power in order to preserve, protect and promote health, safety, and welfare and the peace, quite and repose of persons within the Township.

SECTION 2. General Prohibition Against Disturbing the Peace.

A. It shall be unlawful for any person to make any unreasonable or excessive noise within the boundaries of the Town of North Elba, by whatever means or from whatever means or from whatever source. For purposes of this local law, "unreasonable noise" shall generally include any noise which is of such character that a reasonable person of normal sensitivities would not tolerate under the circumstances, or is detrimental to the life or welfare of any individual, or causes a risk of public inconvenience or alarm.

B. Any person aggrieved by such noise may complain to the Town Code Enforcement Officer, or any law enforcement agency with jurisdiction, about such unreasonable or excessive noise. The Code Officer or law enforcement personnel shall, in response to each complaint, verify by use of the sound level meter described herein that the noise complained of does exceed the limit described herein, and, if

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

so, may thereupon issue an appearance ticket or criminal summons.

C. As used herein, the following terms shall have the following meanings:

(i) dBa shall mean A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standard Institute, "Specification for Sound Level Meter (ANSI 51.4-1971)", properly calibrated, and operated on the "A" weighting network.

(ii) Load amplification device or similar equipment shall mean a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loud speaker, or sound amplifier which is operated in such a manner that it creates unreasonable or excessive noise.

SECTION 3. Unreasonable and Excessive Noise Prohibited.

It shall be unlawful for any person to make, continue, cause to be made or permit to be made any unreasonable or excessive noise within the geographical boundaries of the Town of North Elba. The determination as to the existence of unreasonable noise may be established either by the specific acts considered to be unreasonable noise, as set forth in Section 4 below, or by the measurements exceeding the limitations set forth in Section 5 below.

SECTION 4. Specific Acts Constituting Unreasonable Noise.

The following acts and the causes thereof are declared to be in violation of this local law and to constitute unreasonable and/or excessive noise:

A. The use of any load amplification device or sound-reproduction device outside a structure whether on private property or on a public right-of-way or public space at any time within the residential areas or within the commercial areas of the Town which, by causing noise, annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.

B. The use of any load amplification device or sound-reproduction device inside a structure in such a manner as to result in the sound or any part thereof from such apparatus to be projected therefrom outside of the structure or out of doors at any time within residential areas, or during night hours in commercial areas, whereby the sound can be audibly heard more than one hundred (100) feet from the real property boundary line from which the noise emanates. Sound which crosses any real property boundary shall be deemed to be projected within the meaning of this chapter.

Nothing within Subsections A and B herein shall be construed to prevent the operation of any such apparatus by any person within any building or structure, provided that the sound therefrom or any part

thereof is not projected outside of any building or out of doors, or to prohibit the use of any apparatus with a personal earphone so that the sound therefrom or any part thereof is not audible to persons other than the user of the earphone.

C. The operation of any load amplification device or sound-reproduction device on a vessel so that the sound therefrom is audible on land, which annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.

D. The use and operation of any load amplification device or sound-reproduction device in a vehicle which would constitute a threat to the safety of pedestrians or vehicle operators or where conditions of overcrowding or street repair or other physical conditions are such that the use of a sound reproduction device would deprive the public of the right to the safe, comfortable, convenient and peaceful enjoyment of a public street, park or place for public purpose and would constitute a threat to the safety and welfare of the public.

E. The operation of any load amplification device or sound-reproduction device within one hundred (100) feet of any school, church, health-care facility, clinic or town hall while the same is in session or conducting business therein so as to interfere with the functions of such facilities.

F. The operation of any load amplification device or sound-reproduction device within one hundred (100) feet of any hospital, nursing home or similar facility whereby the sound emanating from the device can be audibly heard within the building or structure therein and so as to interfere with the functions of such facilities or disturb or annoy the patients in the facility.

G. Yelling, shouting or hooting at any time or place so as to annoy or disturb the quiet, comfort and repose of a reasonable person of normal sensitivities.

H. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any business, which annoys or disturbs the quiet, comfort and repose of a reasonable person of normal sensitivities.

I. Construction activity. The performance or engagement in construction work, building, excavating, hoisting, grading, demolishing, dredging, chainsawing or pneumatic hammering within the limits of the Township between the hours of 9:00 p.m. and 7:00 a.m. that causes sound which annoys or disturbs a reasonable person of normal sensitivities in any property zone, except for emergency work of public service utilities.

J. The sounding of any horn, security alarm or other auditory signaling device in any vehicle, vessel, engine, machine or stationary boiler for a period of time longer than five (5) minutes, except as required by law or to provide a warning signal during use thereof. This provision shall not be construed to prohibit the use and

operation of a signal device in an emergency vehicle.

K. The operation of a vehicle without an adequate muffler or exhaust system to prevent any unreasonable noise in violation of the Vehicle and Traffic Law Section 375, Subdivision 31.

L. The use and operation of any lawn maintenance device, including mowers, edgers, trimmers and power-driven hedge shears, between the hours of 9:00 p.m. and 7:00 a.m. that causes sound that annoys or disturbs a reasonable person of normal sensitivities in a residential real property zone. This provision does not apply to the operation of such equipment on golf courses.

M. The use and operation of air conditioners, snowblowers or other mechanical devices which cause noise that annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities, except upon cases of urgent necessity or upon the interests of public health, safety and convenience. This provision shall not be construed to prohibit the use and operation of town, county, state or other governmental equipment otherwise in compliance with the provisions of this chapter.

N. The keeping of any animal or bird which causes noise that annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.

O. Any other excessive or unreasonable noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities, except that the enumerated provisions of Subsection A through N of this section shall govern and regulate the actions and activities therein prohibited.

SECTION 5. Additional Guidelines to Determine Unreasonable Noise.

"Unreasonable" or "excessive" noise shall be defined as noise measured in excess of 50 dBa between the hours of 9:00 p.m. and 7:00 a.m.

SECTION 6. Methods of Measurement.

A. Noise measurements shall be made with a sound-level meter and compatible octave band analyzer manufactured according to the specifications of the American National Standards Institute, USA Standard Specification for General Purpose Sound Level Meters (51.4-1971) and Preferred Center Frequencies for Accoustical Measurements (51.6-1960) or any subsequent nationally adopted standard superseding the above standards.

B. Except where impractical, sound measurements shall be made from the specific position of the complainant at the premises from which noise complaints are received and shall be made at a height of at least three (3) feet above the ground and three (3) feet away from walls, barriers, obstructions or other sound-reflective surfaces.

Where the nature of the noise permits, the slow response setting shall be used to obtain the noise level on the sound-level meter. The sound analysis curve shall be plotted in decibels upon the noise-rating numbers chart, and the highest portion of the curve in any octave and above a noise-rating curve shall be the noise-rating number for the measurement. The average curve of several noise measurements may be used to plot the sound analysis curve.

C. When detailed sound analysis measurement cannot be made, a measurement of the noise using the A scale of a standard sound-level meter may be made, and the noise-rating number shall be determined by this measurement minus eight (8) decibels.

SECTION 7. Exclusion.

This local law and the standards set hereunder, shall not apply to the following activities: the use and operation of emergency and rescue vehicles; the use and operation of aircraft; the use and operation of snowmaking equipment; the use of fireworks by a municipality or department or agency thereof for by private parties who have received prior approval by the Town Board.

SECTION 8. Penalties for offenses.

Any person who violates the provisions of this local law shall for the first offense be fined up to a maximum of two hundred fifty dollars ($250.00). Any person who subsequently violates these provisions shall be punished by a fine of up to a maximum of five hundred dollars ($500.00) for a second offense, seven hundred fifty dollars ($750.00) for the third offense and one thousand dollars ($1,000.00) for the fourth and subsequent offenses committed within a twelve (12) month period.

SECTION 9. Effective date.

The provisions of the local law shall be effective immediately.

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 19___ 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 _____ 19___, 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 19___ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19___, 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 of 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 appropritate 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.

Barbara S. Whitney Town Clerk

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

(Seal) Date: June 21, 1999

(Certification to be executed by ~~County Attorney~~, ~~Corporation Counsel~~, Town Attorney, ~~Village Attorney~~ or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Essex

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Edward P. Finnerty
Signature EDWARD P. FINNERTY

Town Attorney
Title

~~County~~
~~City~~
Town of North Elba
~~Village~~

Date: June 21, 1999