

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 of Davenport
Town
Village

Local Law No. 1 of the year 20 09

A local law Establishing the Town of Davenport Noise Local Law

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

~~County~~
~~City~~ of Davenport as follows:
Town
~~Village~~

§ 1-1. Declaration of policy.

It is hereby declared to be Town policy to prevent any unreasonable noise detrimental to the public welfare. The prohibitory clause of this chapter shall not apply to mechanisms or devices used in home and real property maintenance, all farm equipment and machinery specifically used for farming purposes and all Town equipment and machinery used for Town purposes.. The following examples are inclusive but not exclusive: lawn mowers, hedge clippers, power saws, snow blowers and Rototillers.

§ 1-1.1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated: UNREASONABLE NOISE - a sound of a type and/or volume that a reasonable person under the circumstances would not tolerate or which disturbs, inconveniences, injures or endangers the comfort, repose, peace, health, safety or welfare of a reasonable person, the neighborhood, the community or the public that occurs during the hours of 8:00 p.m. and 7:00 a.m., Sunday through Thursday and 10:00 p.m. to 7:00 a.m.,

Friday and Saturday and day before legal holidays.

§ 1-2 Public disturbances.

A person is guilty of causing a public disturbance when he either recklessly or with intent cause public inconvenience, annoyance or alarm or creates a risk thereof by:

- A. Continuously sounding any horn or signal device on any automobile, motorcycle or other vehicle except as a warning pursuant to the provisions of the Vehicle and Traffic Law of the State of New York.
- B. Making, permitting or controlling an unreasonable noise.
- C. Operating any radio, television, computer, musical instrument, phonograph, disc player, cassette player or other device or electronic device:
 - 1) In such a manner so as to produce sound which disturbs the peace, quiet or comfort, repose, health, safety or welfare of the public or otherwise causes unreasonable noise; or
 - 2) In such a manner which is audible through walls between units or apartments within the same or contiguous buildings or from another property or from the street or otherwise causes unreasonable noise.
- D. Using any motor vehicle so out of repair, so modified or so adapted as to create loud and unreasonable grating, grinding, rattling or other noise.
- E. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- F. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show or sale or display of merchandise by the creation of noise.
- G. The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising or other purposes.
- H. The use of any radio apparatus, talking machine, loudspeaker or amplifier attached thereto in such a manner that the loudspeaker shall cause the sound from such radio apparatus or talking machine to be projected therefrom outside of any building or out of doors; or the use of any radio apparatus, talking machine, loudspeaker or amplifier which is in any way fastened to or connected with any outside wall or window. Nothing herein contained shall be construed to prevent the operation of a radio apparatus or talking machine used in a reasonable manner by any person within any building or structure, provided that the said radio apparatus, talking machine or loudspeaker shall not project the sound therefrom outside of any building or out of doors.

§ 1-3 Special permits.

The Town Clerk may issue, on approval of the Town Board, a special permit to allow noise above the stated level concerning a special event of unusual interest.

§ 1-4 Enforcement.

A. It shall be the duty of the local Law Enforcement Agency to enforce the provisions of this local law.

B. Any person violating the provisions of this local law shall first be issued a warning of violation by any police officer or other person authorized herein who shall require that the violation immediately cease. The warning may be either written or verbal. If after such warning the person shall not comply, he or she shall be subject to the penalties provided in § 1-5.

C. In addition to and not in limitation of any power otherwise granted by law, the local Law Enforcement Agency is hereby authorized to issue appearance tickets for violations of this local law.

§ 1-5 Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense for each day (24 hours) shall be deemed a distinct and separate violation.

(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. 1 of 20 09 of the ~~(County)~~(City)(Town)(Village) of Davenport was duly passed by the Town Board of the Town of Davenport on September 22, 2009 _____, 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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(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 a 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) (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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 1 _____ above.

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

Date: 9-25-09

(Seal)
(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 Albany

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.

[Signature]
Signature

Town Attorney
Title

County
City of Davenport _____
Town
Village
Date: 9/23/09