
(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 Clermont
Town
~~Village~~

Local Law No. 2 of the year 2018

A local law adopting Noise Control Regulations in the Town of Clermont.

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

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

SECTION 1. Title

This local law shall be known as " Adopting Noise Control Regulations in the Town of Clermont".

SECTION 2. Authority

The Town Board of the Town of Clermont enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, §2 (c) (6) and (10).
2. New York Statute of Local Government, §10 (1) and (7).
3. New York Municipal Home Rule Law, §10
4. New York Town Law §64 (17-a) (Protection of Aesthetic Interest), (23) (General Powers)

SECTION 3. Legislative History

The Town Board of the Town of Clermont hereby finds and declares that:

It is hereby declared that the public policy of the Town is to maintain the ambient noise level in the Town, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the Town, prevent injury to human and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the Town. It is the public policy of the Town that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the Town affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the Town. The provisions and prohibitions hereinafter contained and enacted are or the above-mentioned purpose.

SECTION 4. Enactment

ARTICLE I

General Provisions

§ 1-2. Declaration of policy.

It is hereby declared that the public policy of the Town is to maintain the ambient noise level in the Town, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the Town, prevent injury to human and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the Town. It is the public policy of the Town that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the Town affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the Town. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purpose.

§ 1-3. Interpretation.

This chapter shall be liberally construed so as to effectuate the purposes described in this chapter. Nothing herein shall abridge the powers and responsibilities of any police department or law enforcement agency to enforce the provisions of this chapter. Nothing herein shall be construed to abridge the emergency powers of any health department or the right of such department to engage in any necessary or proper activities.

§ 1-4. Definitions.

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

AMBIENT NOISE — The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

A-WEIGHTED SOUND LEVEL — The sound pressure level in decibels as measured on a sound level meter using the A-weighting frequency response, which provides the meter with a sensitivity to noise levels that is similar to that of the average human ear.

COMMERCIAL PROPERTY — Any property that is primarily used for retail or wholesale trade or furnishing services for sale or profit, including but not limited to:

- A. Dining and/or drinking establishments;
- B. Banking or other financial institutions;
- C. Establishments for providing retail goods or services;
- D. Establishments for providing wholesale goods or services;
- E. Establishments for recreation and entertainment;
- F. Office buildings; and
- G. Hotels and/or motels.

CONSTRUCTION — Any activity necessary or incidental to the erection, demolition, assembly, alteration, installation or equipment of buildings, public or private highways, roads, premises, parks, utility lanes or other property, including but not limited to land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture or ice and snow removal.

dba — The abbreviation designating the unit of sound level as measured by a sound level meter using A-weighting.

DECIBEL — The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

DEMOLITION — Any dismantling, intentional destruction, or removal of buildings or structures.

DWELLING UNIT — A single unit within a building providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, and having only one kitchen.

EMERGENCY — Any occurrence or circumstances involving actual or imminent physical or property damage which demands immediate action.

EMERGENCY WORK — Any work or action necessary to deliver essential service, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging of waterways or abating life-threatening conditions.

FREQUENCY — The number of sound pressure oscillations per second, expressed in hertz; abbreviated "Hz."

HABITUAL VIOLATOR – any person, organization or other legally recognized entity which shall be found guilty of violating this chapter four or more times in any given twenty four (24) month period.

IMPULSE SOUND — Sound characterized by either a single pressure peak or a single burst (multiple pressure peaks) having a duration of less than one second.

INDUSTRIAL PROPERTY—Property that is primarily used for manufacturing and processing operations, which may include exterior or interior storage of goods, materials, and/or finished products, and showrooms for the sale of finished products, or for storage and distribution of goods, wares, merchandise, substance or articles, excluding wholesale or retail sales.

Leq or LAeq is the equivalent continuous sound level that, over a given time period, conveys the same sound energy as the actual time-varying sound.

L10 is a statistical level which represents the sound level exceeded for 10% of the measurement time. This value represents the higher noise levels measured during a sampling period

L90 is the sound level that is exceeded 90% of the time. This value is widely used to approximate the background sound level (without contributions from louder, transient levels).

Lmax and Lmin are the highest and lowest short term values measured over a given period of time. These measurements shall be based on the Fast time weighting setting, unless specified otherwise by the board..

MULTI-DWELLING-UNIT BUILDING — Any building in which there are two or more dwelling units.

NOISE — Any sounds of such level and duration as to be or tend to be injurious to human health or welfare or which would unreasonably interfere with the enjoyment of life or property throughout the Town, as defined herein.

NOISE DISTURBANCE — Any sound which:

- A. Endangers or injures the safety or health of humans or animals; or

- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Endangers or injures personal or real property.

PUBLIC RIGHT-OF-WAY — Any street, avenue, boulevard, road, highway, sidewalk, alley or boardwalk that is leased, owned or controlled by a governmental entity, no matter how designated.

PUBLIC SERVICE FACILITY — Any facility and its related premises, property, or equipment used to provide governmental services to the public, including, but not limited to schools and Offices and buildings of agencies or instrumentalities of government.

PUBLIC SPACE — Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINE — Either:

- A. A line of record, including its vertical extension, that bounds a parcel of real property and separates one parcel of real property from another or from a street or any other public space; or

- B. The vertical and horizontal boundaries of a dwelling unit that is within a multi-dwelling unit building.

REFUSE COLLECTION VEHICLE — A motor vehicle designed or used to compact, remove, collect, or transport refuse, solid waste or recyclables.

RESIDENTIAL PROPERTY — Property used for human habitation.

SOUND — An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL — The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C, as specified in American National Standards Institute (ANSI) specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER — Any instrument, used for the measurement of noise and sound levels and which complies with standards established by the American National Standards Institute (ANSI) specifications for sound level meters.

SOUND PRESSURE LEVEL — The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

SOUND SOURCE — Any person, animal, device, operation, process, activity, or

phenomenon which emits or causes sound.

VIBRATION — An oscillatory motion of solid bodies of deterministic or random natures described by displacement, velocity or acceleration with respect to a given reference point.

ARTICLE II

Prohibited Acts

§ 2-1. Unreasonable noise prohibited.

Any of the following acts and causes thereof which annoy, disturb, injure or endanger the comfort, repose, health, peace, safety or welfare of a reasonable person of normal sensibilities are declared to be in violation of this chapter and to constitute unreasonable noise:

A. No person who owns or has immediate control over an animal shall permit such animal to cause annoyance, alarm, or noise disturbance for more than 15 minutes at any time of the day or night by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of such person's property.

C. No person shall cause or permit to be caused the excessive sounding of any horn or other auditory signaling device on or in any motor vehicle except to serve as a warning of danger.

D. No person shall cause or permit the operation of any device, vehicle, construction equipment or lawn maintenance equipment, including but not limited to any diesel engine, internal combustion engine or turbine engine, without a properly functioning muffler in good working order.

E. No person shall cause or permit to be caused noise from power tools, lawn mowers, leaf blowers or agricultural equipment when operated on a residential property, between the hours of 10:00 p.m. and 7:00 a.m.

F. No person shall cause or permit to be caused any noise which, when measured by a sound level meter at the real property line of the parcel of residential or commercial property, public space from which it is emanating, is in excess of 75 dBA, between the hours of 7:00 am and 10:00 pm on Sunday through Thursday, and 7:00 a.m. to 11:00 p.m. on Friday, Saturday, and Holiday weekends. After 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday, Saturday and Holiday weekends, noise level shall not exceed 50 dBA.

G. No person shall cause or permit to be caused any noise which, when measured by a sound level meter at the real property line of the parcel of industrial property from which it is emanating, is in excess of 75 dBA between the hours of 7:00 a.m. and 10:00 p.m. on Sunday through Thursday, and 7:00 a.m. to 11:00 p.m. on Friday, Saturday, and Holiday weekends, After 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday, Saturday and Holiday weekends, noise level

shall not exceed 50 dBA.

H No person shall collect refuse from a property, residential or commercial in nature, with a refuse collection vehicle between the hours of 11:00 pm and 6:00 am.

§ 2-2. Motor vehicles.

A. Motor vehicle sound level limits and equipment shall be in compliance with provisions of any state law, including but not limited to the New York State Vehicle and Traffic Law.

B. No person shall operate a vehicle in such a manner as to cause unreasonable noise by spinning or squealing the tires of such vehicle.

C. No person shall allow noise from an automobile alarm in excess of five minutes after it has been activated.

**ARTICLE III
Exceptions**

§ 3-1. Exceptions to prohibited noises.

Regardless of the decibel limits, the provisions of this chapter shall not apply to:

A. Sound and vibration emitted for the purpose of alerting people in an emergency, including, but not limited to, sirens and public address systems.

B. Sound and vibration emitted in the performance of correcting an emergency.

C. Sounds created by bells, chimes or similar instruments and devices as part of a religious observance or service or used by a cemetery or school licensed or chartered by the State of New York.

D. Sounds from agricultural equipment when operated in conformance with approved agricultural practices.

E. Sounds from agricultural animals (cattle, poultry, swine, etc.)

F. Noise from equipment operated for the purpose of snow removal or ice control, including but not limited to snow blowers, snow throwers, sanders, and snow plows, provided such equipment is operated with a muffler, and miscellaneous equipment used for general maintenance of your property during daytime operating hours.

G. Noise from a burglar alarm on any building or motor vehicle, provided such burglar alarm shall terminate its operation within five minutes after it has been activated. If the alarm does not terminate its operation within five minutes it shall nevertheless be exempt if there have been less than three such incidents involving the building or motor vehicle within the previous 12 months.

- H. Noise from a public service facility
- I. Noise from military, civic or authorized parades, or funeral processions.
- J. Noise from emergency generators used during power outages, or due to routine operational testing of same.
- K. Noise from construction, repair, and/or demolition performed by or on behalf of a governmental entity, and emergency work.
- L. Noise generated during the execution of construction or demolition being pursued in compliance with an approved permit from the Town of Clermont.

**ARTICLE IV
Enforcement and Administration**

§ 4-1. Enforcement officers.

The noise control requirements established by this chapter shall be administered and enforced by the Town of Clermont Building Department and such other trained employees and/or officials authorized by the Town Supervisor.

§ 4-2. Measurements.

A. The measurement of any sound or noise shall be made with a sound level meter using the A weighted scale and slow response, except for sounds or noises which occur in single or multiple burst with a duration of less than one (1) second, for such sounds or noises fast response shall be used. The sound level measurement shall be made not nearer to the sound source than the closest property line of the parcel on which such noise is generated.

B. Measurements are to be made utilizing either a Type I or Type II meter, and in conformance with ASTM E1014-08, Standard Guide for Measurement of Outdoor A-Weighted Sound Levels and ASTM E1503-97, Standard Test Method for Conducting Outdoor Sound Measurements Using a Digital Statistical Analysis System.

C. Measurement sessions shall be a minimum of fifteen (15) minutes in duration.

D. For enforcement actions the L eq, L min and L max shall be recorded for each measurement session.

E. For applicant reports submitted to the Board:

- I. receptor locations will be identified on a map and agreed to by the Board,
- II. Ambient sound characteristics (Leq, Lmin, Lmax, L10 and L90) shall be measured at all receptor locations
- III. The proposed sound characteristics shall be determined

- (either by field measurement or other available documentation, at the discretion of the Board)
- IV. The proposed sound shall be “added” to the ambient sound to determine the new proposed sound levels at the receptor locations
 - V. A discussion of the proposed sound levels and how they compare to Ambient as well as the allowable sound levels per this chapter
 - VI. A discussion of any proposed mitigative measures as may be necessary.

ARTICLE V Penalties

§ 5-1. Penalties for offenses.

Any person who violated any provision of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be subject to penalties in the following manner:

A. Upon a first conviction, by a fine not less than \$50 and not more than \$250 or by imprisonment for a period not to exceed seven days, or by both such fine and imprisonment.

B. Upon a second conviction, by a fine not less than \$250 and not more than \$500 or by imprisonment for a period not to exceed 10 days, or by both such fine and imprisonment.

C. Upon a third or subsequent conviction, by a fine not less than \$2,500 and not more than \$5,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.

D. Penalties for each violation shall increase in severity from A to B to C and ultimately E if each sequential offence is separated by less than 6 months. If it has been greater than 6 months since the last offense, than the penalty assessed shall revert to A, habitual violations notwithstanding

E. If the violation is of a continuing nature, each calendar day during which it occurs shall constitute an additional, separate and distinct offense.

E. Habitual violations shall constitute prima fascia evidence that the site, as operated, has failed to comply with the Town of Clermont Code, resulting in a significant adverse environmental impact. Said habitual violators of this Chapter shall forfeit any previously granted site plan approval and be required to undergo site plan review process anew.

F. Similar to habitual violators, filing of false or frivolous accusations/complaints shall likewise not be tolerated. Therefore, if it is determined that any person has within any 24 month period, filed four or more unfounded, false, or frivolous accusations/complaints (in regards to this chapter only) then said person shall be liable to compensate the Town of Clermont for any costs associated with

pursuing said false and or frivolous accusations/complaints.

SECTION 5. REPEAL

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

SECTION 6. SEVERABILITY AND VALIDITY

In the event that any word, phrase or part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York.

(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. 2 of 2018 of the Town of Clermont was duly passed by the Town Board on July 2, 2018 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 (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____ (Elective Chief Executive Officer*) _____, 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)(repassed after disapproval) by the _____ on _____, 20__. 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 (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.

*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 chairman 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 _____, _____, 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.

Mary Helen Shannon, Town Clerk

(Seal)

Date: July 2, 2018

(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 COLUMBIA

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 Andrew B. Howard

Title: Counsel

~~County~~
~~City~~ of Clermont
Town
~~Village~~

Date: _____, 2018