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(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. 3 of the year 2018

A local law amending the Clermont Zoning Law pertaining to Noise Control.

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 “Amending the Clermont Zoning Law pertaining to Noise Control”.

### 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, Article 16 (Zoning).
5. 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. The provisions and prohibitions hereinafter contained and enacted are intended to amend the Zoning Law of the Town of Clermont to address the review of issues related to noise in land use applications.

### **SECTION 4. Enactment**

Add

#### **14.14.24 NOISE**

##### **A. Application for variance.**

The Zoning Board of Appeals of the Town of Clermont shall have the authority to grant an area variance for the purposes of this section. Any person seeking an area variance pursuant to this section shall file an application with the ZBA. The application shall consist of a letter/report signed by the applicant. As is customary in the Town of Clermont all cost of said application and review costs of same shall be borne by the applicant. In addition, the following information shall be provided:

1. The plans, specifications and any other information pertinent to the source of sound and vibration.
2. The characteristics of the sound emitted by the source, including but not limited to the sound levels, the presence of impulse sounds or discrete (pure) tones, the day(s) and hours during which such vibration and sound is generated.
3. Specific sound characteristics to be provided with the report are Leq, Lmax, Lmin, L10 and L90.
4. The noise abatement and control methods used to restrict the emissions of the sound and vibration.
5. A time schedule for the installation of noise abatement and control devices, technology and procedures or process modifications that will be followed to restrict the emissions of sounds and vibrations.
6. The name and address of the applicant and the applicant's agent, if any, and whether the applicant is the owner, lessee, licensee, etc., of the premises. If the applicant is not the owner, the application must contain the written consent of the owner.
7. The names and addresses of all owners of contiguous land within 200 feet of the premises. The applicant in like manner shall give notice of the application

by certified mail return, receipt requested, to all property owners surrounding the sound source site within a radius of 200 feet from the borders of said site.

8. A filing fee, as set by resolution of the Town Board of the Town of Clermont.

**B. Public hearing and decision.**

Upon prior reasonable public notice published in accordance with the normal procedure as set forth in the Town of Clermont Code, the Zoning Board shall hold a public hearing on the special variance application. The Board, upon reviewing all input from the public hearing and obtaining any additional data or information as deemed necessary, shall then determine if a mitigation plan is necessary and or pass upon the application by resolution. The decision shall be transmitted to the Secretary of the ZBA, who will advise the applicant of such decision by transmitting a copy of the application official record to the applicant, with the decision and conditions, if any, imposed by the Zoning Board attached.

At the Zoning Boards discretion, if after reviewing said letter/report, and if said report contains information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Then the Zoning Board may issue a Variance for same.

**C. Applicant to obtain other necessary permits.**

This section does not preclude the necessity of the applicant to obtain the approval(s) or permit(s) required by any other agency(ies) before proceeding with the action approved under the approved special variance. No action may be initiated by the applicant until such time that all other applicable permits, as may be required, are issued.

**D. Activity open to inspection.**

Activity conducted under the special variance shall be open to inspection at any time by any agent of the Town for purposes of ensuring compliance.

**E. Powers and duties of Zoning Board of Appeals.**

1. In determining whether to grant or deny the application, the Board shall balance the hardship to the applicant, the community and other persons of not granting the variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and any other adverse impacts of granting the special variance.

2. In connection with this section, the Board shall cause the taking of sound level readings in the event that there shall be any dispute as to the sound levels prevailing or to prevail at the sound source site.

3. The Board shall have the power to impose restrictions, conditions and the

recording of covenants upon any sound source site, including time limits on permitted activity in the event that it shall grant any variance hereunder.

**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. 3 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.

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\*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