

# *Local Law Filing*

*New York State Department of State  
162 Washington Avenue, Albany, NY 12231*

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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 of Lewis**

### **Local Law No. 6 of the Year 2005**

#### **“A LOCAL LAW ESTABLISHING LIMITS TO THE EXERCISE OF EMINENT DOMAIN FOR LEWIS COUNTY.”**

(Insert Title)

BE IT ENACTED by the Board of Legislators of the County of Lewis, as follows:

#### SECTION I. TITLE.

This Local Law shall be known as “ESTABLISHING LIMITS TO THE EXERCISE OF EMINENT DOMAIN FOR LEWIS COUNTY”.

#### SECTION II. PURPOSE.

The purpose of this Local Law is to establish certain limits to the exercise of eminent domain by or for the County of Lewis (the “County”).

#### SECTION III. DEFINITIONS.

As used in this LOCAL law:

(A) "Acquisition" means the act of vesting of title, right or interest to, real property by the County by virtue of the County's exercise of the power of eminent domain.

(B) “Eminent Domain Procedure Law” (EDPL) shall mean the New York State Eminent Domain Procedure Law as the same may be amended from time to time.

(C) "Person" means any individual, partnership, corporation, association, trust, or legal entity.

(D) "Real property" includes all land and improvements, lands under water, waterfront property, the water of any lake, pond or stream, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal or equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of mortgage

or otherwise.

(E) "Public project" means any program or project for which acquisition of real property may be required for a public use, benefit or purpose, pursuant to the EDPL, provided however, that "public project" shall specifically exclude:

- a. any project wherein the real property that is the subject of the proceeding is, at the time of such proceedings, being actually used or occupied for residential, commercial or agricultural purposes; **and**
- b. the title or interest in or to the property to be acquired by the County pursuant to the EDPL, upon acquisition, is or shall be transferred or conveyed by grant, deed, easement, lease or otherwise to a person.

#### SECTION IV. APPLICABILITY.

This Local Law shall apply to any and all takings of real property pursuant to the EDPL by or for the County of Lewis.

#### SECTION V. DETERMINATIONS AND FINDINGS.

In addition to any other determinations and/or findings that may be required pursuant to EDPL § 204, upon conducting a public hearing as required by EDPL § 203, the County shall affirmatively determine and find:

- c. That the property proposed to be acquired by the County shall, upon acquisition, be used for a public project, as defined herein; and
- d. That the property proposed to be acquired is necessary for the proposed public project.

#### SECTION VI. AUTHORITY.

This Local Law shall take effect 45 days after the adoption hereof and all legal requirements having been met.

(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. \_\_\_\_\_ of 2005, of the County of Lewis was duly passed by the Lewis County Board of Legislators on \_\_\_\_\_, in accordance with the applicable provisions of law.~~

**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 19\_\_\_\_, of the County, City, Town, Village of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_, and was approved, not disapproved, repassed after disapproval, by the \_\_\_\_\_, and was deemed duly adopted on \_\_\_\_\_, 19\_\_\_\_, 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 19\_\_\_\_, of the County, City, Town, Village of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_, and was approved, not disapproved, repassed after disapproval, by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_. 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 \_\_\_\_\_, 19\_\_\_\_, in accordance with the applicable provisions of law.~~

**4. (Subject to a 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. 6 of 2005, of the County of Lewis was duly passed by the Lewis County Board of Legislators on October 4, 2005. Such Local Law was subject to permissive referendum and no valid petition requesting such referendum was filed as of November 18, 2005, 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 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 the 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 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.

  
Clerk of the Lewis County Board of Legislature  
Clerk or officer designated by local legislative body  
TERESA L. KENEALY, CLERK

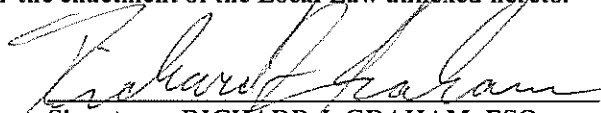
(Seal)

Date: November 23, 2005.

(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 LEWIS ) ss:

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 - RICHARD J. GRAHAM, ESQ.  
LEWIS COUNTY ATTORNEY  
County of Lewis  
Date: November 22, 2005.