
(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. 2 of the Year 2009

A LOCAL LAW ESTABLISHING THE LEWIS COUNTY TRAIL SYSTEM

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

SECTION 1. TITLE

This Local Law shall be known as “**A LOCAL LAW ESTABLISHING THE LEWIS COUNTY TRAIL SYSTEM.**”

SECTION 2. STATUTORY AUTHORITY

This local law is enacted pursuant to the following authority:

1. Municipal Home Rule Law (“MHL”) § 10(1)(i) provides that a county may adopt local laws relating to its property, affairs or government provided it is not inconsistent with the provisions of the constitution or any general law.
2. County Law § 219(1) provides that a county may utilize its reforestation properties “for recreation and kindred purposes.” This has been interpreted as authorizing a county to designate reforestation lands for use by all-terrain vehicles (“ATVs”), provided that such use is consistent with forest and wildlife conservation and watershed protection. Opinion Atty. Gen. Opn. No. 2002-1.
3. Vehicle and Traffic Law § 2405(2) states that: “a municipality, by ordinance or local law, may designate any appropriate public lands, waters and properties other than highways under its jurisdiction as a place open for travel by ATVs upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of ATVs on such public property. . .”

SECTION 3. PURPOSE

The purpose of this Local Law is to:

- (a) Establish a network of trails and interconnecting roads (“Trail System”) that is available for ATV operation throughout Lewis County;

- (b) Establish a set of guidelines for the potential expansion of such ATV trail system.
- (c) Establish a methodology for managing the trail system and implementing appropriate procedures to mitigate environmental impacts and provide for the long-term preservation of natural resources.

SECTION 4. LEGISLATIVE FINDINGS

The Board of Legislators hereby makes the following findings in support of this Local Law:

1. That the Board of Legislators has received and reviewed a proposed Lewis County Trail Plan (“Trail Plan”), which sets forth a resource management plan for the development of a network of interconnecting trails throughout Lewis County for outdoor enthusiasts who enjoy the use and operation of all-terrain vehicles (“ATVs”). The Trail Plan contemplates the creation of a Lewis County Trail System (“Trail System”), which is an identified and designated system of trails and interconnecting roads. The Trail System may include:
 - Trails located on County Reforestation Lands
 - Trails located on private lands that are designated as open to the public
 - Railroad Corridors
 - Utility Corridors
 - Recreation Easements
 - Interconnecting Town Roads (as authorized by local law by the respective townships)
 - Interconnecting County Roads (as authorized by local law)
2. The goal of the Trail Plan was to set out the management objectives and guidelines for the development of the of the Trail System so that the interests of ATV operators could be balanced with the long-term preservation of the environment and the County’s natural resources for future generations.
3. Before taking action with respect to the proposed Trail Plan, the Board of Legislators, acting as lead agency, conducted an extensive review of the potential impacts to the environment pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and Title 6, Part 617 of the New York Codes, Rules and Regulations (“NYCRR”) implementing Article 8 (collectively referred to hereinafter as “SEQRA”).
4. The Board of Legislators further determined that pursuant to Part 6 NYCRR § 617.6(a)(4), preparation of a draft Generic Environmental Impact Statement (“GEIS”) would better serve the Board in assessing potential environmental impacts.
5. The Board of Legislators has heretofore accepted the Final GEIS and has adopted a Findings Statement in accordance therewith.

6. That the Trail Plan has been reviewed and revised, where necessary, in order to assure that it conforms to the GEIS and its related Findings. Contemporaneous with the adoption of this Local Law, the Board of Legislators will formally approve and adopt by resolution the Trail Plan in its final form.
7. The Board of Legislators further finds that one of the key elements of the Trail System is the development of trails on County-owned reforestation lands. The Board is equally aware that the reforestation lands are valuable assets to the County and its residents both now and for generations to come. Therefore, the Board finds that it is incumbent upon them to set forth clearly defined rules and regulations as to the use of the reforestation lands, and more particularly the use of the trails thereon.
8. The Board of Legislators further finds that similar considerations pertain to the use of trails that are now or may hereafter become available to the County for incorporation into the Trail System, whether such trails are located on private property, along former railroad beds or utility corridors.
9. Furthermore, the Board of Legislators finds that this Local Law is necessary in order to set forth certain procedures for the development of the Trail System in order to assure that both present and future development complies with the GEIS and its related Findings.
10. As an additional means of regulating the use and operation of ATVs within Lewis County, the Board is adopting contemporaneously herewith the "Lewis County ATV Code" which will set forth certain rules and regulations as to the operation of ATVs in Lewis County.

SECTION 5. DEFINITIONS

As used in this Local Law:

1. **All-Terrain Vehicles (ATV's):** Shall have the same meaning as set forth in § 2281 of the Vehicle & Traffic Law.
2. **Conservation Foreman:** Shall refer to the individual who holds the position of Lewis County Conservation Foreman.
3. **County:** Shall mean the County of Lewis.
4. **County Reforestation Lands:** Lands purchased, acquired, or accepted by gift by the County of Lewis for purposes of reforestation. Pursuant to County Law § 219, County reforestation lands may be used for "watershed protection, . . . the

production of timber and forest products and for recreation and kindred purposes.”

5. **Current Trail Development:** Shall refer to:
 - (i) Trails and logging roads located upon County Reforestation Lands identified herein and designated by operation of this Local Law as open and available for ATV trail development, subject to the rules and regulations set forth herein and the management guidelines set forth in the Trail Plan, and
 - (ii) Trails located in, on or upon private property that heretofore have permitted ATV trails to be developed for use by the public pursuant to an agreement with NYSORVA and
 - (a) Have been reviewed by the County in connection with the DGEIS and FGEIS, dated December 18, 2008; and
 - (b) Are authorized by this local law to be incorporated into the Lewis County Trail System by mutual agreement between the landowner and the County, and if applicable, NYSORVA.
6. **Amendments to the Trail System:** Shall refer to amendments to the Trail System as the result of:
 - (i) County Reforestation Lands that may be designated in the future as being available for ATV development, subject to the rules and regulations set forth herein and the management guidelines set forth in the Trail Plan, or
 - (ii) New ATV trails to be constructed where none existed previously on or across County Reforestation Lands that are identified by this Local Law as being available for ATV trail development, or
 - (iii) Newly identified trails to be located on or across private lands, including railroad corridors or utility right-of-ways.
7. **Hazards:** Obstacles in the trail corridor making travel unsafe; something causing unavoidable danger, peril, risk, or difficulty.
8. **Non-Trail Areas:** Property located directly adjacent to the designated trails in the Trail System. Only those trails that are designated as part of the Lewis County Trail system are open to the public. Adjacent property and/or private trails that are not so designated are to be respected as private property and should not be encroached by ATV users.
9. **NYSORVA:** shall refer to the New York State Off-Road Vehicle Association.

10. **Operate:** shall mean to ride in or on, other than as a passenger, or use or control the operation of an ATV in any manner, whether or not said ATV is under way.
11. **Operator:** means every person who operates or is in actual physical control of an ATV.
12. **Railroad Corridors:** existing RR lines no longer in use by the railroads. These corridors of land are vast stretches of land, which can be utilized for recreational trails, provided that permission is granted by the owner of the rail lines.
13. **Trails Coordinator:** shall mean the individual who holds the position of Lewis County Trails Coordinator.

SECTION 6. DESIGNATION OF COUNTY REFORESTATION LANDS FOR CURRENT TRAIL DEVELOPMENT.

1. The Board of Legislators hereby determines and declares that effective May 1, 2009, the trails and logging roads located in and upon County Reforestation Lands designated and described in Exhibit "A" attached hereto, shall be open for the use and operation of ATVs, subject to the rules and regulations herein set forth and the management guidelines set forth in the Lewis County Trails Plan.

2. The opening of any County Reforestation Land to trail development does not imply that ATV use and operation is permitted in any non-trail area within the parcel of land. The use and operation of ATVs on County Reforestation Lands shall be strictly limited to the designated and signed trails within such parcel, as hereinafter set forth.

SECTION 7. DEVELOPMENT OF ATV TRAILS ON DESIGNATED COUNTY REFORESTATION LANDS.

1. Upon the designation of any County Reforestation Land by the Board of Legislators, through this Local Law or any future local law, as available for Trail Development, the Board of Legislators hereby authorizes the Lewis County Trails Coordinator, in consultation with the Conservation Foreman to develop ATV trails in and upon such land in the following manner:

- a. Personally inspect the proposed parcel of land and/or the proposed trail and map out with as much specificity as possible where any proposed ATV trails would be located on the parcel of land (including GPS coordinates for such proposed trails, where possible).
- b. Designate such existing truck trails, logging roads or similar trails as open for use by ATV's by marking the same with appropriate signs, provided that

- (i) The Trails Coordinator and Conservation Foreman determine, that such use is consistent with forest and wildlife conservation and watershed protection and does not otherwise interfere with the County's reforestation plans; and
- (ii) Each such truck trail, logging road or similar trail is clearly marked with signs to be placed thereon by the Trails Coordinator.

c. All signs to be used by the Trails Coordinator for the purposes set forth in this Local Law shall be of uniform size, shape, lettering and marking; shall include the Lewis County official logo; and shall clearly and concisely inform the public that the trail is open for the operation of ATV's.

- 2. Nothing contained herein shall be construed to obligate the Trails Coordinator to open any particular truck trail, logging road or similar trail or any part thereof for use as an ATV trail. Such determination shall be at the sole discretion of the Trails Coordinator in consultation with the Conservation Foreman as set forth herein.

SECTION 8. AMENDMENTS TO THE TRAIL SYSTEM.

1. In the event that the Trails Coordinator receives (i) a written request from an individual or organization to open additional County Reforestation Lands to trail development, or (ii) a written request from an individual or organization to construct a new trail upon a County Reforestation Land that is herein or hereafter being opened for trail development, or (iii) a written request from an individual or organization to open trails on private parcels of land or railroad or utility right-of-ways or corridors, the Trails Coordinator shall take the following steps:

- a. Perform an initial evaluation of the application, assessing the feasibility of admitting the property based upon several factors, including: the property's overall potential for enhancing the existing trail system; proof of property ownership; the property owner's willingness to execute an access agreement with the County; the property's ability to safely host ATV travel; and such other factors as deemed reasonable and prudent by the Trails Coordinator.
- b. If the Trails Coordinator's initial evaluation of the application indicates that it may be feasible to admit the property, he/she can authorize the performance of a more detailed environmental review pursuant to SEQRA, with the County Legislature serving as Lead Agency for such review.

- c. Upon completion of a substantive environmental review, the Trails Coordinator will forward to the County Legislature the results of such review, plus a recommendation on property admission. The County Legislature will then finalize its own review of the available information, complete its SEQRA Lead Agency responsibilities, and ultimately decide whether or not to admit the property.
- d. In the event that the Board of Legislators deems it appropriate to admit the property to the Trail System, the Board shall amend the Trail System as follows:
 - (i) If County Reforestation Land, by local law designating the same as open for the use and operation of ATVs, subject to the rules and regulations herein set forth and the management guidelines set forth in the Lewis County Trails Plan.
 - (ii) If private property, by resolution of the Board of Legislators approving an access agreement between the landowner and the County, and if applicable, NYSORVA, and subject to the rules and regulations herein set forth and the management guidelines set forth in the Lewis County Trails Plan.

2. Upon admission to the Trail System as set forth above, the property shall be identified and mapped by the Trails Coordinator as described in Section 7 above.

SECTION 9. INTERCONNECTING PUBLIC HIGHWAYS

1. It is anticipated that the Trail System may include one or more public highways that will interconnect with the trails located on County Reforestation Lands and the off-road trails on private property that have been identified and signed as incorporated into the Lewis County Trail System. Interconnecting public highways may be incorporated into the Lewis County Trail System under the following conditions:

- a. The highway in question has been designated for use by ATV traffic by appropriate government action pursuant to Vehicle and Traffic Law § 2405 by the governmental agency having jurisdiction.
- b. In the case of a town highway, the Trails Coordinator has received a concurring resolution from the town board setting forth their request for inclusion of the designated highway into the Lewis County Trail System.
- c. In the event that either a town or County highway has not been reviewed pursuant to the GEIS performed by the County and identified on the map attached to the FGEIS, dated December 18, 2008, the Trails Coordinator

initiates the procedures set forth in subparagraphs “b” and “c” of Section 7, Paragraph 1 above.

- d. Trails Coordinator identifies the highway as being incorporated into the Trail System by placing or causing to be placed thereon appropriate Lewis County Trail signs as well as identifying such highway on maps produced by the Trails Department for public use.

SECTION 10. OPERATION OF ATVS ON THE LEWIS COUNTY TRAIL SYSTEM

1. No person shall operate an ATV on the Trail System except in conformance with this Local Law, the Lewis County ATV Code and any other applicable law, rule or ordinance.
2. No person shall operate an ATV on the Trails System except where designated and marked for such use by appropriate signage as hereinafter provided.
3. No person shall operate an ATV in or on a non-trail area as defined herein. Any person who operates an ATV on the Trail System:
 - (i) upon a trail that is marked and signed as “closed” or otherwise has not been designated and marked as being “open” for such use, or
 - (ii) operates an ATV outside of the designated and signed trail shall be guilty of trespass and shall be subject to prosecution under the New York State Penal Law.

SECTION 11. LEWIS COUNTY ATV TRAIL PERMITS.

1. Except as hereinafter provided, no person shall operate any ATV on any County Reforestation Land, County property, or any trail on private property that has been incorporated into the Lewis County Trail System unless such ATV has received a Lewis County Trail Permit in accordance with the provisions of this Local Law, and the Lewis County Trail Permit number for such ATV is in full force and effect and displayed as provided under this Local Law and regulations promulgated hereunder.

2. The Lewis County Trails Coordinator is hereby authorized to issue a Lewis County Trail Permit certificate and assign a Lewis County Trail Permit number to each such ATV, upon the receipt of a completed application and appropriate permit fees as hereinafter provided. All such Trail Permits shall be valid commencing May 1, 2009 through the opening day of hunting season (rifle) as the same is prescribed each year by NYS DEC, unless, prior to expiration such period, it is surrendered, cancelled, revoked or suspended pursuant to the provisions of this Local Law. Commencing in 2010 and each year thereafter, such permits shall be valid from April 1, through the opening day of hunting season (rifle).

- a. The Board of Legislators may license designated outlets who shall thereby be authorized to receive permit applications, receive permit fees and transmit the same to the Trails Coordinator, and issue permits to the applicant, all in accordance with the terms of such license agreement as approved by the Board of Legislators.
- b. The Board of Legislators may also provide for the receipt of permit applications and permit fees through a secure internet site.

3. Unless otherwise prescribed by this Local Law, a permit number once assigned under this Local Law shall remain with the permitted ATV until the ATV is destroyed, abandoned or permanently removed from the Lewis County Trail System, or until such permit number is changed or terminated by the Lewis County Trails Coordinator.

4. Fees. Fees for the issuance of a Lewis County Trail Permit to be collected by the Lewis County Trails Coordinator under this Local Law are as follows.

- a. A fee of forty dollars (\$40) for each individual ATV for which a Trail Permit is requested, provided the applicant presents proof of current membership in an ATV club that is a member of the Lewis County ATV Association.
- b. A fee of eighty dollars (\$80) for each individual registration who is not a current member of an ATV club that is a member of Lewis County ATV Association.
- c. Provided, however, that the provisions of paragraphs (a) and (b) of this subdivision shall not apply to any landowner who has entered into an access agreement with the County to permit the development of one or more ATV trail on his or her property.
- d. Fees shall not be prorated and such fees shall be applicable only to the year in which the permit is issued.

5. Application. The owner of each ATV requiring Lewis County Trail Permit under this Local Law shall present an application for a Lewis County Trail Permit to the Lewis County Trails Coordinator, or his designated licensee as provided in Paragraph 2[a] above, on a form to be prepared and furnished by the Lewis County Trails Coordinator for that purpose. Such application shall contain or be accompanied by:

- a. Proof of the ownership of the ATV described in the application;
- b. Proof that the ATV described in the application has been duly registered pursuant to Vehicle and Traffic Law § 2280, et. seq.;

- c. Proof that the ATV described in the application is covered by liability insurance as required by Vehicle and Traffic Law § 2407;
- d. Appropriate fee as provided in Paragraph 4 above.

Upon receipt of a completed application, the Trails Coordinator shall issue a Lewis County Trails Permit, which shall consist of a Lewis County Trail Permit, Lewis County Trail Permit number and current Lewis County Trail Permit decal. The Trail Permit must be carried by the ATV operator at all times. No ATV shall be considered as validly registered within the meaning of this section unless a current Lewis County Trail Permit, Lewis County Trail Permit number and current Lewis County Trail Permit decal have been issued.

6. Renewal. Every owner of an ATV shall renew his or her Lewis County Trail Permit each calendar year by submitting an application together with the appropriate fees.

7. Permit Decal. At the time of issuance of the original Lewis County Trail Permit and at the time of each renewal thereof, the Lewis County Trails Coordinator shall also issue validating stickers on decals he or she has prescribed indicating the validity of the current Lewis County Trail Permit and the expiration date thereof, which decal of Lewis County Trail Permit shall be affixed to the vehicle in such manner as to be plainly visible from a distance of fifty feet.

8. ATVs owned by governmental agencies. Lewis County Trail Permit numbers shall be assigned, without payment of a fee, to ATVs owned by governmental agencies, or by volunteer organizations if used exclusively for emergency purposes, provided that each such ATV shall display the proper Lewis County Trail Permit number assigned to it.

9. Exemption. No Trail Permits shall be required for the following described ATVs:

- a. ATVs owned and operated by Lewis County and used by the Lewis County Trails Coordinator, Lewis County Sheriff, or any deputy, special patrolman or peace officer employed thereby;
- b. ATVs owned and operated by NYS Police, Department of Environmental Conservation, Department of Parks and Recreation or any other department thereof.

10. Special events. ATVs operated at special events pursuant to section twenty-four hundred eight of the Vehicle and Traffic Law may be exempted from the provisions of this Local Law concerning Trail Permits, at the discretion of the Board of Legislators.

11. Responsibility for operation by minors. No owner or other person in possession of any ATV shall authorize or knowingly permit any person under eighteen years of age to operate such ATV in violation of any provision of this section.

12. Violations. Any person who violates any provision of this section of the Local Law or regulation adopted pursuant thereto shall be guilty of a traffic infraction. A person guilty of a first offense shall receive a fine of \$ 100. Upon conviction of a second offense occurring within one calendar year, the offender shall receive a fine of \$200 and all Trail Permits issued to the owner and operator thereof shall be revoked for a period of one calendar year from the date of conviction.

13. Rules and regulations. The Lewis County Trails Coordinator shall make such rules and regulations, as he or she may deem necessary to carry out the provisions of this article.

14. Disposition of fees. The Lewis County Trails Coordinator shall deposit all monies received from the issuance of Lewis County Trail Permits of ATVs and all fees otherwise collected under this Local Law to the credit of a Recreational Trails Fund to be established by the Lewis County Treasurer. All such funds shall be dedicated exclusively to the establishment, maintenance and operation of the Lewis County Trail System.

SECTION 12. SEVERABILITY:

In the event that any part or provision of this Local Law or the application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the Local Law or the application thereof to other persons or circumstances. Moreover, the Board of Legislators of the County of Lewis hereby declares its intent that it would have passed this Local Law or the remainder thereof had such invalid provision or invalid application been apparent.

(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 2009, of the County of Lewis was duly passed by the Lewis County Board of Legislators on February 17, 2009, 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 20____, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, 20____, and was approved, not disapproved, repassed after disapproval, by the _____, and was deemed duly adopted on _____, 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 disapproved, 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 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. _____ of 2004, of the County of Lewis was duly passed by the Lewis County Board of Legislators on _____, 2004. Such Local Law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 2004, 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.)~~

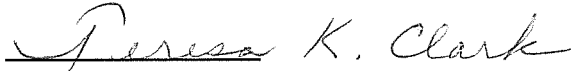
~~I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 20____, of the City of _____ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special/general election held on _____, 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 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 Legislators Clerk or
officer designated by local legislative body
TERESA K. CLARK, CLERK**


(Seal)

Dated: February 17, 2009.

(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**

Dated: February 17, 2009.