
(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. 3 of the Year 2009

A LOCAL LAW ESTABLISHING THE LEWIS COUNTY ATV CODE

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

§ 101. TITLE.

This Local Law shall be known as “**THE LEWIS COUNTY ATV CODE.**”

§ 102. LEGISLATIVE FINDINGS:

The Board of Legislators makings the following findings in support of this legislation:

1. That Lewis County has heretofore adopted the Lewis County Trail Plan (“Trail Plan”), which sets forth a management plan to encourage and develop a network of interconnecting trails 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 the 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. That in order to effectively manage the utilization of the Trail System and to balance the interests of ATV operators with the long-term preservation of the environment and the County’s natural resources for future generations, it is necessary to issue rules and regulations pertaining to the use and operation of ATVs while on the Trail System.

§ 103. PURPOSE:

The purpose of this Local Law is to establish the rules and regulations by which the use and operation of ATVs within the Lewis County Trail System shall be governed.

§ 104. DEFINITIONS:

As used in this Local Law:

- a. **All-Terrain Vehicles** (“ATVs”): shall have the same meaning as set forth in § 2281 of the Vehicle & Traffic Law.
- b. **County**: shall mean the County of Lewis.
- c. **County Reforestation Land**: shall mean those certain tracts or parcels or tracts of land that have heretofore or hereafter may be granted, conveyed or transferred to the County and dedicated for the purpose of reforestation, recreation and kindred purposes as described in County Law § 219.
- d. **Non-Trail Area**: Property located near or 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.
- e. **Trails Coordinator**: shall mean the Lewis County Trails Coordinator.
- f. **Conservation Foreman**: shall mean the Lewis County Conservation Foreman.
- g. **Trail Plan**: shall mean the Lewis County Trail Plan as adopted on February 3, 2009, and as may be amended from time to time.
- h. **Lewis County Trail System**: shall refer to the network of off-road trails that are opened to the public and are located on public and/or private property and have been specifically designated and signed as part of the Lewis County Trail System, as well as the interconnecting town and County highways that have been designated by local law as open for ATV use.

§ 105. OPERATION OF ATVs ON LEWIS COUNTY TRAIL SYSTEM

In addition to any other general or special law, rule or regulation that may now or hereafter apply to the use and operation of ATVs, and in order to protect the order, conduct, health, safety and general welfare of the public, the County hereby adopts the following rules and regulations pertaining to the operation of ATVs on the Lewis County Trail System.

- a. No person shall operate an ATV on the Lewis County Trail System except in conformance with this Local Law.
- b. No person shall operate an ATV on County property except upon a trail designated and signed as open for such use as part of the Lewis County Trail System.
- c. No person shall operate an ATV upon a trail on private property unless that trail has been designated and signed as being open for such use as part of the Lewis County Trail System or the ATV operator has received the express permission to do so by the property owner.
- d. No person shall operate an ATV on County property on a trail or portion thereof that has been designated as "closed" by appropriate signage;
- e. Any person who operates an ATV in or on a Non-trail Area, as defined herein, (i.e., outside of the designated and signed trail) without the express permission to do so from the property owner shall be guilty of trespass and shall be subject to prosecution under the New York State Penal Law.
- f. No person shall operate an ATV in violation of any sign, direction, instruction or rule, whether written or verbal, and issued by the Lewis County Trails Coordinator, the Conservation Foreman, Lewis County Sheriff, NYS Department of Environmental Conservation, NYS Police or any other public official;
- g. No person shall leave the scene of any accident resulting in personal injury to another party until such times as the Lewis County Sheriff or State Police arrives, except for the purpose of summoning aid;
- h. No person shall overtake another ATV operator in such a manner as to cause contact with the ATV operator being overtaken and to yield the right-of-way to the ATV operator being overtaken;
- i. No person shall willfully stop on any trail where such stopping is likely to cause a collision with other ATV operators or vehicles;
- j. No person shall willfully fail to yield to any other user of the trails when entering or crossing a trail;
- k. No person shall fail to wear protective clothing and helmets as required by the Vehicle and Traffic Law;
- l. No person shall fail to report any personal injury to the Lewis County Sheriff's Department before leaving the County Trail System; and

- m. No person shall willfully remove, deface, alter or otherwise damage signage, warning devices or other safety devices placed and maintained by or at the request of the County.
- n. Notwithstanding the provisions of Vehicle and Traffic Law § 2410, or any other general or special law, no person under the age of ten years shall operate an ATV on the Lewis County Trail System. No parent or guardian shall authorize or knowingly permit his child or ward, if under ten (10) years of age, to operate an ATV in violation of this provision of this Local Law, and shall be held liable for any violations hereof.
- o. Notwithstanding the provisions of Vehicle and Traffic Law § 2410, or any other law, general or special, no person over the age of ten years and under the age of sixteen years shall operate an ATV on Lewis County Trail System unless:
 - (1) He or she is under the supervision of a person eighteen years of age or over; and
 - (2) He or she shall be in possession of a safety certificate issued by the Commissioner of Motor Vehicles, evidencing that the holder thereof has successfully completed an ATV safety course as defined by Vehicle and Traffic Law § 2409. Failure to produce such certificate at such time shall be presumptive evidence that such person is not the holder of such certificate.
 - (3) No parent or guardian shall authorize or knowingly permit his child or ward, if under sixteen years of age, to operate an ATV in violation of any provision of this Local Law, or any rule or regulation promulgated thereunder. If a child under the age of sixteen years is found to be operating an ATV in violation of these provisions, it shall be presumptive evidence that such operation was performed with the knowledge and permission of the parent or guardian of such child and the parent or guardian shall be subject to the penalties prescribed herein.
 - (4) No owner or other person in possession of any ATV shall authorize or knowingly permit any person under sixteen years of age to operate such an ATV in violation of any provision of this Local Law, or any rule or regulation promulgated thereunder.
- p. No person shall operate an ATV on any trail within the Lewis County Trail System at a speed greater than 25 miles per hour (unless otherwise posted) or at a rate of speed greater than is reasonable and prudent under the conditions and having due regard to the actual and potential hazards then existing, whichever is less. Any person found guilty of violating the provisions of this subparagraph shall be deemed to have violated Section 1180(a) of the Vehicle & Traffic Law.

Should such person be found guilty of violating the provisions of this subparagraph on more than one occasion within period of a year shall, in addition to any other penalty applicable under the law, be prohibited from using any ATV trail on Lewis County Trail System for such period of time as the Conservation Foreman, in his sole discretion, may deem appropriate.

- q. Excepting duly authorized maintenance activities, no person shall otherwise disturb the existing condition of any trails within the Lewis County Trail System and shall not construct, excavate or build in any, way, shape or form, obstacles, hazards, challenges, mudbogs or otherwise modify the existing trails maintained and incorporated into the Lewis County Trail System. Any person found guilty of performing such activities shall be subject to prosecution under the Penal Law of the State of New York, and in addition to any other penalty applicable under the law, shall be prohibited from using any ATV trail on Lewis County Trail System for such period of time as the Conservation Foreman, in his sole discretion, may deem appropriate.

§ 106. VIOLATIONS AND PENALTIES

- a. A violation of subparagraphs “b” through “e” inclusive of Section 105 hereof shall be deemed a trespass as defined under the New York State Penal Law and in addition to any penalties prescribed thereunder, such person shall also be subject to a fine of \$250 for a first offense, and for a second or more offenses thereafter, the ATV of such person shall be subject to impoundment by the arresting officer and in such event shall not be redeemed except upon the payment of \$250 impoundment fee, in addition to any fines imposed hereunder.
- b. A violation of subparagraphs “f” through “q” inclusive of Section 105 hereof, shall be deemed a traffic infraction as defined by § 155 of the Vehicle and Traffic Law. A prosecution thereof may be commenced by a simplified traffic information as the same is defined by § 100.10[2](a) of the Criminal Procedure Law.

(1) A person found guilty of subparagraphs “f” through “o” shall be subject to a fine of \$100 for the first offense and \$ 200 for any subsequent violation. In addition, upon the second or subsequent violation thereof such person shall be subject to revocation of their Lewis County Trail Permit for a period of one calendar year from the date of conviction.

(2) A person found guilty of subparagraph “p” shall be subject to such fines and penalties as prescribed by Section 1180, *et. seq.*, of the Vehicle & Traffic Law and in addition thereto shall be subject to revocation of their Lewis County Trail Permit for a period of one calendar year from the date of conviction.

(3) A person found guilty of subparagraph "q" shall be subject to a fine of \$250 for the first offense and \$500 for any subsequent violation as well as restitution for the cost of any damages incurred to the premises. In addition, such person shall be subject to revocation of their Lewis County Trail Permit for a period of one calendar year from the date of conviction.

- c. All of the rules and regulations set forth in this Local Law may be enforced by the Lewis County Sheriff's Department, any other police officer as that term is defined by Criminal Procedure Law § 1.20, any "special patrolmen" as that term is defined by General Municipal Law § 209-v, or any other peace officer under New York State law.

§ 107. 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. 3 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

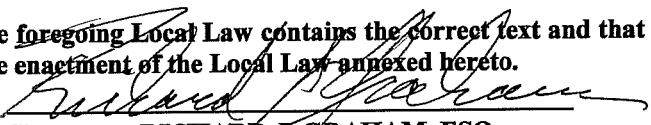
(Seal)

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.