

## Local Law Filing

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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. 2 of the Year 2013

#### A LOCAL LAW PERMITTING ALL-TERRAIN VEHICLE OPERATION ON 1.75 MILES OF MACKAY ROAD (CR 45)

**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 “A Local Law Permitting All-Terrain Vehicle Operation on 1.75 miles of Mackay Road (CR 45)”.

##### **SECTION II. PURPOSE.**

The purpose of this Local Law is to amend the designation of certain highways or portions thereof within the County Highway system as being open for travel by all-terrain vehicles pursuant to the authority granted in Section 2405 of the Vehicle and Traffic Law of the State of New York.

##### **SECTION III. DEFINITIONS.**

For purposes of this Local Law, the terms hereinafter identified shall have the meanings indicated:

- (a) The term “County” shall refer to the County of Lewis.
- (b) The term “ATV” shall refer to an “all-terrain vehicle” as defined in Section 2281(1) of the Vehicle and Traffic Law of the State of New York.
- (c) The term “Trail System” shall refer to the Lewis County Trail System, as adopted and administered pursuant to Local Law No. 2 – 2009, entitled, “A LOCAL LAW ESTABLISHING THE LEWIS COUNTY TRAIL SYSTEM,” and as the same may be amended from time to time.

- (d) The term "ATV Code" shall refer to the Lewis County ATV Code which sets forth the local rules and regulations pertaining to the operation of ATV's on public property pursuant to Local Law No. 3 – 2009, entitled "A LOCAL LAW ESTABLISHING THE LEWIS COUNTY ATV CODE," and as the same may be amended from time to time.
- (e) The term "CR" shall mean County Route, and is used to describe or designate certain highways as owned by the County of Lewis and maintained by the Lewis County Highway Department.

#### **SECTION IV. LEGISLATIVE FINDINGS**

The Board of Legislators hereby makes the following findings:

1. That Board of Legislators has carefully reviewed a Memorandum from the County Attorney detailing the legal obligations of the Board when considering opening a County highway or portion thereof to ATV use.
2. The Board of Legislators has conducted a review of the potential adverse impacts the opening of the proposed interconnecting County Roads consistent with 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") and after an investigation and analysis conducted by the Board's environmental consultants, has found and determined that adding these trails to the Lewis County Trail ATV System will not result in a significant environmental impact.
3. The Board of Legislators has also reviewed the annual ATV Activity Report as compiled by the Lewis County Sheriff's Department.
4. The County Highway Superintendent has reviewed the roads or portions thereof that are proposed to be opened to ATV traffic, and has provided the Board with his written opinion that such roads or portions thereof are presently opened to all classes of motor vehicle traffic and that opening said roads or portions thereof to ATV traffic will not significantly impact traffic safety at those localities.
5. In light of all the information submitted, reviewed and/or received during the public hearing, the Board of Legislators hereby determines and finds that with respect to that certain portion of Mackay Road (CR 45) ) as described herein, that absent the adoption of this Local Law, it is otherwise impossible for ATV's to gain access to the southerly end of the trail located on the property of Mauro and that it is otherwise impossible to gain access to the northerly end of a trail located on the property of Buczek, which trail traverses 0.75 miles through the property of Buczek and Kotary.

#### **SECTION V. DESIGNATION OF HIGHWAYS.**

The following County highway, or portions thereof, is hereby designated as OPEN to travel by ATV's:

- That certain portion of **Mackay Road (CR 45): 1.75 miles**, beginning at the southerly end of a trail located on the property of landowner Mauro; thence SW a distance of 1.75 miles to the northerly end of an ATV trail located on the property of landowner Buczek, which trail traverses the properties of Buczek and Kotary.

#### **SECTION VI. CONDITIONS AND RESTRICTIONS.**

- A. All of the conditions, restrictions, rules and regulations contained in or adopted pursuant to Article 48-C of the Vehicle and Traffic Law of the State of New York shall apply with respect to the operation of ATV's within the areas designated in the preceding Section IV.
- B. The road segments set forth above shall be deemed incorporated into the Lewis County ATV Trail System and subject to the conditions, restrictions, rules and regulations set forth in Local Law No. 2 – 2009, entitled, "**A LOCAL LAW ESTABLISHING THE LEWIS COUNTY TRAIL SYSTEM**" as well as Local Law No. 3 – 2009, entitled, "**THE LEWIS COUNTY ATV CODE**" as the same may be amended from time to time.

#### **SECTION VII. SEPARABILITY.**

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.

#### **SECTION VIII. EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing with the Secretary of State.

(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 2013, of the County of Lewis was duly passed by the Lewis County Board of Legislators on March 5, 2013, 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 20\_\_\_\_, of the County of Lewis was duly passed by the Lewis County Board of Legislators 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.~~

**~~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.~~

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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.

**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.

  
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**TERESA K. CLARK, CLERK**  
**LEWIS COUNTY BOARD OF LEGISLATORS**

(Seal)

**Dated: March 19, 2013.**

**(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.

  
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**RICHARD J. GRAHAM, ESQ.**  
**LEWIS COUNTY ATTORNEY**

**Dated: March 19, 2013.**