

VILLAGE OF LUTHER  
Ordinance No. \_\_\_ of 2004

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**AN ORDINANCE, PURSUANT TO PART 811 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT OF 1994, BEING ACT 451 OF THE PUBLIC ACTS OF 1994, AS AMENDED, TO AUTHORIZE THE OPERATION OF OFF ROAD VEHICLES (ORVs) ON SECONDARY COUNTY ROADS BY PERMANENTLY DISABLED PERSONS, TO PROVIDE PROCEDURES THEREFOR, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.**

**THE VILLAGE OF LUTHER ORDAINS:**

**Section 1. Title.**

This Ordinance shall be known as the Village of Luther ORV Ordinance.

**Section 2. Definitions.** As used in this Ordinance,

- (a). "Highway" means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.
- (b). "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- (c). "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- (d). "ORV" means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheeled, 3-wheeled, or 4-wheeled vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving power from a source other than muscle or wind. ORV does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property where it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.
- (e). "Permanently Disabled Person" means a person who is determined by a physician licensed to practice in this state to have one (1) or more of the following physical characteristics, which based on present medical expectations will always persist and never significantly improve:

- (1). Inability to walk more than 200 feet without having to stop and rest during any time of the year.
  - (2). Loss of use of one (1) or both legs or feet.
  - (3). Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.
  - (4). A lung disease from which the person's forced expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.
  - (5). A cardiovascular disease from which the person to measure between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.
  - (6). Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.
- (f). "Roadway" means that portion of a highway within the Village of Luther; improved, designed, or ordinarily used for vehicular travel. In the event a highway includes two (2) or more separate roadways, the term "roadway," as used herein, shall refer to any such roadway separately, but not to all such roadways collectively.
- (g). "Secondary County Road" means a highway within the Village of Luther designated as a secondary county road by the Lake County Road Commission.
- (h). "Shoulder" means that portion of the highway within the Village of Luther contiguous to the roadway generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped vehicles otherwise permitted on the roadway.

### **Section 3. Authority of Permanently Disabled Person to Operate ORV on Secondary County Roads.**

A permanently disabled person may operate an ORV on secondary county roads within the Village of Luther after obtaining a permit from the Village pursuant to this Ordinance and in full compliance with the regulations contained in this Ordinance.

#### **Section 4. Application for Permit.**

A permanently disabled person who desires to operate an ORV on secondary county roads shall file an application with the Village Clerk, or other Village official designated by the Village Council, and pay the permit fee as established by resolution of the Village Council. The application shall be accompanied by a statement or report from a physician licensed to practice in the state of Michigan which documents that the person is a permanently disabled person as defined in this Ordinance.

#### **Section 5. Issuance of Permit; Map Designating County Secondary Roads.**

If the Village Clerk or other designated Village official determines that the applicant is a permanently disabled person and the applicant pays the required permit fee, then the applicant shall be issued a permit to operate an ORV on secondary county roads within the Village of Luther. Upon the issuance of a permit under this section, the Village Clerk or other designated Village official shall issue to the applicant a map of the Village of Luther on which is designated all secondary county roads on which the applicant may lawfully operate his or her ORV pursuant to the permit granted under this Ordinance. The applicant shall sign the Village's copy of the permit acknowledging receipt of the map.

#### **Section 6. Regulations.**

A permanently disabled person shall comply with the following regulations when operating his or her ORV on secondary county roads:

- (a). The ORV shall be operated on the shoulder of the highway or on the extreme right of the open portion of the highway and driven with the flow of traffic.
- (b). An ORV may be operated on the roadway when necessary to cross a bridge if the ORV is brought to a complete stop before entering onto the roadway and the operator yields the right-of-way to an approaching vehicle on the highway.
- (c). The ORV shall only be operated on secondary county roads between sunrise and sunset each day.
- (d). ORVs operated on secondary county roads shall display on the rear of the ORV an orange triangular sign warning that the ORV is a slow-moving vehicle.
- (e). The operator of the ORV shall possess the permit issued under this Ordinance when operating the ORV on secondary county roads and shall display the permit to any police officer upon request.

**Section 7. Penalty/Municipal Civil Infraction.**

Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

**Section 8. Enforcement Officer.**

The Village President, and any police officer are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

**Section 9. Revocation of Permit; Notice; Re-application.**

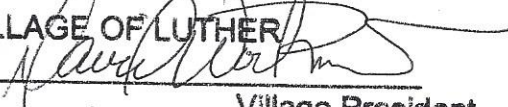

If a permanently disabled person is found responsible by a court of competent jurisdiction for a violation of this Ordinance, either with or without explanation, the Village President following approval by the Village Council, shall revoke the permit issued under this Ordinance. Notice of the revocation shall be sent to the permanently disabled person by first class mail. A permanently disabled person who has had his or her permit revoked pursuant to this section shall not be entitled to apply for another permit under this Ordinance for a period of one (1) year from the date of the revocation.

**Section 10. Validity.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

**Section 11. Effective Date.**

This Ordinance shall become effective upon publication in a newspaper of general circulation within the Village.

VILLAGE OF LUTHER  
By:   
Village President  
By:   
Village Clerk