

ORDINANCE NO. 871

AN ORDINANCE TO AMEND PREVIOUSLY APPROVED CITY ORDINANCE NO. 868 TO CLARIFY THE PROCESS AND REGULATIONS FOR THE USE OF CITY-OWNED PROPERTY WITHIN THE CITY OF RED LODGE.

WHEREAS: The streets, sidewalks, alleys, parks, publicly-owned buildings or vacant land or other public areas of The City of Red Lodge are held by the City for the benefit of the public; and

WHEREAS: On occasion, parties other than the City of Red Lodge may wish to use such areas for specific uses; and

WHEREAS: It is the position of the City that such uses may benefit the residents and property owners of The City of Red Lodge; and

WHEREAS: Negative effects of such uses can be avoided or mitigated; and

WHEREAS: The City of Red Lodge previously amended Ordinance No. 856 through the adoption of Ordinance No. 868 for purposes of clarification regarding the public's use of city-owned property; and

WHEREAS: The City Council has determined it is in the best interest of the City of Red Lodge and its citizens to further amend Ordinance No. 868 as proposed and provided herein.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA:

That Red Lodge City Ordinance No. 868 is hereby amended to read as follows:

Use of a City street, sidewalk, alley, park, or publicly-owned building or vacant land by an Applicant for a commercial use or special event shall be prohibited unless such use has been specifically approved in advance by the Red Lodge City Council as follows:

1. An Applicant shall submit a request for a proposed use of City-owned property to the City through written application specifying such use, the area of proposed use clearly designated on a map, whether or not alcohol will be served, the proposed period of time of such use, the number of people anticipated to participate, whether or not a street and/or alley closure is necessary, whether or not traffic control devices and/or police officers will be necessary, how trash will be removed, and whether or not restrooms are required and provided.
2. The City shall have the right to impose any condition pertaining to public health, safety and welfare upon its approval of an application, and shall retain the right to immediately revoke permission to use City-owned property for any violation of the conditions of approval. The City may require any Applicant to provide for

additional sanitation, recycling, street washing, clean up, etc on City-owned property and for additional restrooms in amounts satisfactory to the Council. Failure to obtain approval in advance shall result in the City's right to cause cessation of the activity.

3. The Applicant shall provide with the application evidence of notification of each property owner or its authorized representative abutting and within one hundred (100) feet of the proposed use to allow for their comment prior to the date of approval.
4. The Applicant shall obtain written acknowledgment of the proposed use from the City Police Department and City or equivalent Fire Department and Ambulance Service.
5. The applicant shall attach a copy of its City business license to the application.
6. Applicants shall pay at the time an application is approved \$175 towards cleanup and maintenance of the area proposed to be used ("Clean-up Deposit") and either:
 - a. a non-refundable fee of \$10 per day or \$150 per calendar month, for use of each area of 120 square feet or less for the period(s) defined in the application, up to the maximum amount of \$100 per day plus an additional fee of \$100 shall be required when alcohol is served plus any additional costs of providing law enforcement in the discretion of the Council; or
 - b. rent appropriate to the circumstances associated with the use, in the discretion of the Council.
7. The Applicant shall submit with the application a commitment of insurance with indemnification of the City of Red Lodge in the amount of One Million Dollars (\$1,000,000) for liability in connection with the proposed use and naming the Applicant and the City of Red Lodge as additional insureds. The Applicants permit shall be immediately and automatically revoked if such insurance coverage is invalid, not current, or not in effect while using City-Owned Property.
8. Applicants shall not permit the display or sale of drug paraphernalia, firearms, knives, machetes, pepper spray, or any other tools, weapons, or devices capable of cutting, stabbing, bludgeoning, or otherwise inflicting serious bodily injury. Compliance with the terms and all relevant ordinances will be the responsibility of the Applicant.
9. Applicant shall clean the City-owned property used by the Applicant each day of use.
10. The Applicant's Clean-Up Deposit shall be refunded upon verification by the City that, in the sole discretion of the City, the area is trash-free and has been restored to its condition prior to the use by 8 a.m. immediately following the last day of use. Upon such verification, the Applicant's Clean-Up Deposit will be refunded the first City business day following verification.
11. Except during the 2nd, 3rd, and 4th of July and when the Beartooth Rally and Harley Rodeo are held, use of the area of City sidewalk within five (5) feet of the lot line of private property in any district zoned for commercial use shall be exempt from this ordinance but shall be subject to the consent of the owner of the real property or its representative on that property.

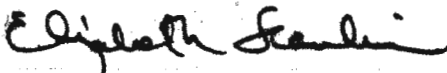
The deadline for filing a completed application shall be four weeks before the proposed use. Eight (8) copies of the application shall be submitted at the time of the filing.


Be it ordained by the Council members of the City of Red Lodge.

First reading by the Council on the 9th day of September 2008.

Second reading by the Council on the 23rd day of September 2008.

PASSED AND APPROVED BY NO LESS THAN FOUR MEMBERS OF THE RED LODGE CITY COUNCIL THIS _____ DAY OF _____ 2008.

By: 
Betsy Scanlin, Mayor

Attest: 
Debbie Tomicich, City Clerk