

ORDINANCE NO. 887

AN ORDINANCE AMENDING THE RED LODGE CITY CODE MAKING IT A CRIME TO REFUSE TO SUBMIT TO BREATH OR BLOOD ALCOHOL AND/OR DRUG TEST. AMENDING TITLE 6-1-11 OF THE RED LODGE MUNICIPAL CODE.

WHEREAS: The State of Montana and the City of Red Lodge have determined that having physical control of a motor vehicle while in an impaired condition presents a significant risk to the public safety and general welfare; and

WHEREAS: The provisions of Montana Law allow municipal governments to regulate traffic upon streets within the Corporate limits; and

WHEREAS: The Red Lodge City charter provides for the exercise of self-government powers; and

WHEREAS: Montana Law grants authority and powers to local governments to regulate the operation of motor vehicles by a person under the influence of alcohol and/or drugs.

Now therefore:

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

The Red Lodge City Code is hereby amended in those parts set forth below to read as follows:

Section 6-1-11: REFUSAL TO SUBMIT TO BREATH OR BLOOD ALCOHOL AND/OR CRUG TEST.

6-1-11 A Purpose and Intent.

B Unlawful to refuse to submit to a breath or blood alcohol and/or drug test.

C Penalties.

6-1-11A: **Purpose and Intent.**

Any person operating or in actual physical control of a motor vehicle while under the influence of alcohol and/or drugs creates a significant risk to public safety, health and general welfare. To help secure public safety, health and general welfare for all persons, the City of Red Lodge adopts this chapter in an effort to deter persons from engaging in this dangerous activity. This chapter is adopted pursuant to Montana Code Annotated 7-14-4102 and 7-14-4103 as well as pursuant to the exercise of the City of Red Lodge's self-government powers granted by the City of Red Lodge Charter.

6-1-11B: **Unlawful to refuse to submit to a breath or blood alcohol and/or drug test.**

It is unlawful and constitutes a misdemeanor offense for any person operating or in actual physical control of a motor vehicle suspected of doing so while under the influence of alcohol and/or drugs to refuse to submit to one or more breath or blood alcohol and/or drug tests to detect alcohol and/or drugs requested and designated by any peace officer as defined by Montana State Law. Prior to charging a person with a violation of this section a peace officer must inform the person requested to take the designated test that refusing the breath or blood alcohol and/or drug test is a misdemeanor offense under Red Lodge City Code and identify the penalties associated with the offense. If any arrested person refuses to submit to one or more breath or blood alcohol and/or drug test requested and designated by a peace officer as provided by Montana State law, the refused test

may not be given. However, the person refusing to submit to any such requested breath or blood alcohol and /or drug test may be charged with a misdemeanor offense pursuant to this section.

6-1-11C: **Penalties.** The penalties for a violation of this chapter are established pursuant to this section. Incarceration is not a penalty for violation of this chapter. A person convicted under this chapter shall be subject to a fine of Five Hundred Dollars (\$500.00), no portion of which may be suspended, waived or deferred by the court.

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

First reading by the Council on the 14th day of September 2010.

Second reading by the Council on the 12th day of October 2010.

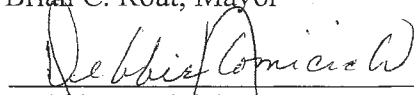
PASSED AND APPROVED BY NO LEES THAN FOUR MEMBERS OF THE RED LODGE CITY COUNCIL THIS 12TH DAY OF OCTOBER 2010.

By:



Brian C. Roat, Mayor

Attest:



Debbie Tomicich, City Clerk