

ORDINANCE NO. 894

AN ORDINANCE AMENDING TITLE 5, CHAPTER 5B OF THE RED LODGE CITY CODE CONCERNING ANIMAL CONTROL (DOGS).

WHEREAS: The City of Red Lodge initially adopted an Ordinance for animal control in 1983, which was amended in 1996; And

WHEREAS: The City of Red Lodge has grown, the needs of the community have changed requiring more and better enforcement, and a more comprehensive approach to animal control issues; And

WHEREAS: It is important to the health, safety and general welfare of its residents and their property that dogs not pose a risk to residents or visitors, that those who abandon animals, allow dogs to stray, damage property, injure persons or other animals be held accountable.

NOW THEREFORE:

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

Title 5, Chapter 5B: Animal Control, Dogs, is hereby repealed in its entirety and is replaced enacted to read as follows:

CHAPTER 5 ARTICLE B DOGS

SECTION:

5-5B-1: Definitions.

- A. "Altered Dog"; A dog that has been operated on to prevent it from procreating. 'Neutered/Spayed'
- B. "Animal"; Any living vertebrate, domestic or wild, except a human being.
- C. "Animal Shelter"; Any premise, either designated by or contracted for by the City for the proper care of impounded dogs held under the authority of this chapter.
- D. "At Large"; A dog without restraint, out of an enclosure, off the premises of the owner.
- E. "Dangerous Dog"; A dog that in the absence of provocation, attacks, bites, chases, harasses or kills another animal; or has been previously found by any Court to be a dangerous dog.
- F. "Dog"; All members of the canine species, male or female, altered or unaltered.

- G. "Enclosure"; An area, pen or other location on the property of the owner with a physical boundary not less than five (5) feet in height to restrain the dog. The enclosure shall be of suitable size to ensure that the area can be maintained in a clean and sanitary manner. Invisible fences, electronic barriers and similar devices do not provide a physical boundary and therefore are NOT suitable enclosures.

NOTE:-The 2010 Red Lodge Zoning Regulations will not permit an enclosure, as defined herein, in the required front yard setback of any residential zoning district as the maximum height is 42 inches.

- H. "Owner"; Any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog.
- I. "Restraint"; a method to secure a dog by leash, tether or lead, under the physical control of the owner, attending party or secured within the confines of the real or personal property of the owner. Verbal or voice control and similar devices or methods do not provide a physical limit and therefore are NOT suitable restraints.
- J. "Service Dog"; any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.
- K. "Vicious Dog"; A dog that in the absence of provocation, inflicts bodily injury to a person; Is involved in a continuous sustained attack upon a person, not allowing the victim any means of escape, regardless of the injury or defensive action; or has been previously found by any Court to be a vicious dog.

5-5B-2 Licensing.

A. Requirement.

It is unlawful for any person to own, keep, harbor, shelter or have custody of any dog over the age of five (5) months within the City of Red Lodge for more than 30-days without obtaining a license as provided herein. An elevated licensing fee may be imposed for issuance of a delinquent license.

B. Application.

The office of the City Clerk shall maintain written applications for a license which at a minimum shall include the following: Name, Physical Address, Mailing Address of the owner, Breed, and Description of the dog. For dogs over six (6) months of age, a current rabies certificate and, if applicable, a sterilization certificate issued by a licensed veterinarian.

C. Rabies Vaccination.

1. An Owner keeping, sheltering or harboring a dog within the City limits for more than 15-days is responsible for appropriate inoculations, vaccinations and immunizations that the dog may require to protect against rabies.
2. Every owner of a dog applying for licensure of the dog is required to provide proof of such vaccination, inoculation or immunization against rabies to the City Clerk. As a part of application, a veterinarian's certificate or certification that immunization against rabies is valid and effective for the period of licensure.

D. License Issuance.

The Red Lodge City Clerk's Office shall be responsible for issuing animal control licenses for the City; however, the City Clerk's Office may delegate authority to issue such licenses to a licensed veterinarian doing business in or within five (5) miles of Red Lodge. The Mayor and City Clerk may adopt administrative rules to implement this section. At a minimum, the following standards shall apply:

1. Upon acceptance of a licensing application and associated fee, the City Clerk shall issue a durable tag (tag) stamped with an identification number and the licensing year. The tag shall be designed such that it will fasten to a collar or harness.
2. The tag shall be worn as identification by the licensed dog at all times within the limits of the City of Red Lodge.
3. The City Clerk shall maintain a record of the identifying numbers of all tags issued with the owners name and contact information.
4. Tags are not transferrable.
5. A duplicate tag shall be issued in accordance with the provisions of this ordinance should a tag be lost, damaged or destroyed.
6. The Red Lodge Police Department is encouraged to create a database of digital photographs of dogs residing within the City Limits as part of a comprehensive effort to return at large dogs to their owner(s).

5-5B-3 Fees.

A. Payment.

The fees for licensure of dogs shall be established by a Resolution of the City Council. Said fees shall be paid in full prior to the issuance of a license by the City Clerk.

B. Refund.

Once paid no portion of a license fee shall be refundable.

C. Impounded Dog.

Any dog that has been impounded by the Red Lodge Police Department shall not be released from the care and/or custody of the impounding entity until such time as the dog is certified for release by the Red Lodge Police Department and any and all fees or charges resulting from said impoundment are paid in full by the owner or the person harboring, sheltering or keeping said impounded dog.

5-5B-4 Prohibitions/Restrictions on Licenses.

A. Single Use.

No person shall use a license for any dog other than the dog for which it was issued.

B. Ownership Change.

Upon change of ownership of a dog greater than five (5) months of age licensed or otherwise, the new Owner shall apply for a new license within 15-days.

C. Effective Period.

The licensing period shall begin January 1st, and end December 31st of each calendar year. If not revoked, a license issued by the City shall be effective only for the calendar year of its issue.

5-5B-5 Offenses.

A. It shall be unlawful for an owner to engage in or to enable a dog to engage in any of the following actions:

1. Interfere with a passerby or passing vehicles;
2. Attack, bite, chase or harass a person;
3. Attack, bite, chase or harass other animals;
4. Trespass on school grounds;
5. Be at large, unrestrained or not in an enclosure;
6. Damage property, public or private, that does not belong to the owner;
7. Disturbs the peace by barking, whining or howling;
8. To permit or cause a dog to urinate or defecate on property without the express consent of the owner thereof;
9. To fail to or refuse to pick up and properly dispose of any feces deposited by a dog on property without the expressed consent of the owner thereof;

10. To keep, shelter or harbor any dog without a license as required by this ordinance;
11. To keep, shelter or harbor any dog that is not vaccinated as provided by this ordinance;
12. To allow a dog that has been deemed by any Court in any State to be a "dangerous/vicious dog" to be at large, unrestrained or outside of an enclosure;
13. Cruelty to animals as provided by §45-8-211 M.C.A.;

5-5B-6 Designation of Vicious or Dangerous Dog:

A. Judicial Process—Petition For Hearing:

1. If the Red Lodge Police Department issues an owner a citation under Section 5-5B-5(2) or 5-5B-5(3) of this Ordinance, the Red Lodge City Court shall consider such citation as a petition and set a hearing for the purpose of determining whether or not the dog in question should be declared dangerous or vicious.
2. If the Red Lodge Police Department has investigated and determined that there exists probable cause to believe that a dog is dangerous or vicious, the City Attorney may petition the Red Lodge City Court to set a hearing for the purpose of determining whether or not the dog in question should be declared dangerous or vicious.
3. If, in the interim, the dog is not restrained or placed in a proper enclosure by the owner, the Red Lodge Police Department may impound the dog, at the owner's expense until the court makes its determination.
4. The Court, after considering the evidence may issue its determination and order based upon such evidence. The order shall be delivered to the owner in accordance with procedures established by the Court. If the court finds beyond a reasonable doubt that the dog is dangerous or vicious, the owner shall comply with all provisions of the order within fifteen (15) days from the date the notice is provided.

B. Dangerous/Vicious Dog Procedures:

1. Determination:

- a. The Red Lodge City Court shall declare a dog dangerous or vicious if it finds beyond a reasonable doubt that the dog, when unprovoked, reacts or responds in an aggressive manner:
 - i. Causing bodily injury to a person; or
 - ii. Biting, chasing or killing any animal without provocation while off the owner's property.

- b. A dog shall not be declared vicious if the person or animal that was injured:
 - i. Was committing, at the time, a willful trespass or other tort upon the property of or premises occupied by the owner;
 - ii. Was provoking, tormenting, abusing or assaulting the dog or can be shown to have in the past provoked, tormented, abused or assaulted the dog; or
 - iii. Was committing or attempting to commit a crime.
 - iv. Or any other mitigating circumstances recognized by the Red Lodge City Court.
- d. The provisions of this subsection do not apply to dogs that are used by law enforcement officials for police or similar work.

C. Vicious/Dangerous Dogs:

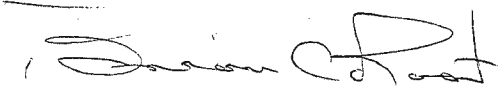
Any dog running at large which appears to be rabid, mad or dangerous to the public shall be destroyed on the spot when it appears that such action is necessary to protect persons or property from imminent danger.

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


First reading by the Council on the 10th day of April 2012.

Second reading by the Council on the 24th day of April 2012.

PASSED AND APPROVED BY NO LESS THAN FOUR MEMBERS OF THE RED LODGE CITY COUNCIL THIS 24th DAY OF April 2012.

By: 

Brian C. Roat, Mayor

Attest: 

Debbie Tomicich, City Clerk