

ORDINANCE No. 927

AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA, TO AMEND THE MUNICIPAL CODE PERTAINING TO LAND-USE AS GOVERNED IN TITLE 12 – DEVELOPMENT, CHAPTER 4 – ZONING REGULATIONS

WHEREAS, § 76-2-301 et. seq. of the Montana Code Annotated authorizes the City of Red Lodge to adopt and enforce local zoning regulation to promote the public health, safety, morals, or the general welfare of the community; and

WHEREAS, The Montana Code Annotated allows municipal governments to regulate and restrict, among other things, the uses and intensity of use of the land; and

WHEREAS, It is in the public and private interest for the City to establish use controls that limit the density of population; and the location and use of buildings, structures, and land for trade, industry, residence or other purposes; and

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

WHEREAS, The Red Lodge Planning Board and Zoning Commission in concert with public comment prepared the updated Draft Zoning Regulations for Domestic Hoofed Animals and Fowl; and

WHEREAS, The Planning Board and Zoning Commission did on November 2, 2016 conduct a public meeting on the proposed draft regulations; and

WHEREAS, The Planning Board and Zoning Commission on a unanimous roll call vote approved Planning Board Resolution 2016-02 which recommended that the City Council adopt by Ordinance the Draft Zoning Regulations; and

WHEREAS, The City Council did conduct a duly noticed Public Hearing on November 15, 2016 on the proposed Hoofed Animal and Fowl Zoning Regulations; and

WHEREAS, The City Council remanded only that portion of the Hoofed Animal Regulations specific to the proposed Conditional Use Permit process back to the Planning Board for further consideration; and

WHEREAS, The City Council directed Staff to prepare an updated ordinance specific to Fowl and the Permitted Use portion of the Hoofed Animal Regulations; and

WHEREAS, The City Council did conduct duly noticed Public Hearings on November 29, 2016 and December 13, 2016 specific to Fowl, and the Permitted Use portion of the Hoofed Animal Zoning Regulations.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL:

1. The Municipal Code of the City of Red Lodge, Montana is hereby amended in those parts set forth below:

A. Title 12 – Development, Chapter 4 – Zoning Regulations, shall be amended regarding Domestic Hoofed Animals and Fowl in accordance the attached Exhibits A-D; and

B. Prior to use of any lands for Hoofed Domestic Animals in accordance with the above noted Exhibits, a management plan acceptable to the City shall be adopted by a Resolution. At a minimum, the management plan shall address fencing, trail corridors, and all applicable development related aspects of the Spires PUD as identified in the Annexation and Subdivision Agreements of record.

C. The abbreviated amendments to the 2016 City of Red Lodge Zoning Regulations, as attached hereto as Exhibits A-D shall be finalized into their full form and inserted into the Municipal Code in Title 12, Chapter 4 prior to the effective date of this ordinance; and kept on file at the Office of the Carbon County Clerk.

2. Repealer.

All other Ordinances, Resolutions, and Documents of the City of Red Lodge, Montana, pertaining to above noted Sections of the City Municipal Code specific Domestic Hoofed Animals and Fowl are repealed upon the effective date of this Ordinance.

3. Effective Date.

This Ordinance shall be effective 30-days after approval of second reading by the City Council of the City of Red Lodge, Montana.

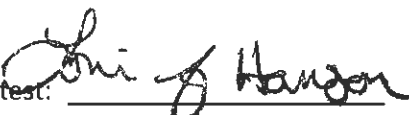
First Reading by the Council on the 29th day of November, 2016.

Second Reading by the Council on the 13th day of December, 2016.

PASSED and APPROVED this 13th day of December, 2016.

City of Red Lodge

By: 
Michael Schoenike, Mayor

Attest: 
Loni Hanson, City Clerk

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Article 4.11.0 DEFINITIONS

4.11.10 Purpose and Intent

The purpose and intent of this Article is to define words, terms and phrases that are important in the application of this Ordinance, and require specification beyond the definitions in a common dictionary to describe their applicability in this Ordinance.

4.11.20 Hierarchy of References for Definitions

When a term is not defined in this chapter, the following references shall be used, in the order listed below, to determine the applicable definition. The term shall be defined for the purposes of this Ordinance as it is defined in the first of the references below to contain a definition for the term. Where a reference provides more than one definition for a term, the Zoning Administrator shall determine which definition shall be used in this Ordinance.

- A. A definition located elsewhere in the City Codes.
- B. Title 76, MCA.
- C. Title 7, MCA.
- D. Titles 70 and 75, MCA
- E. Find Law Online legal dictionary (<http://dictionary.lp.findlaw.com>).
- F. Merriam Webster Online (<http://www.m.-w.com>).

4.11.30 Use of Singular and Plural

Unless otherwise specified by text or the context, the terms listed apply the plural as well as singular. A term in the singular shall include the plural and a term in the plural shall include singular.

4.11.40 Definitions

******COUNCIL --- All Definitions, Other Than Those Below, Have Not Been Shown To Save Space – No Change Proposed To Existing******

Animal, Hoofed Domestic: See Definition at Appendix 1, PUD-S (Permitted Use)

Fowl: Fowl shall include only the domestic female chicken types of landfowl (*Gallus gallus domesticus*); and shall not include other landfowl or waterfowl animals (i.e. quail/pheasant; and duck/goose and swan, etc.)

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Article 4.3.0 ZONING DISTRICT USES AND STANDARDS

4.3.10 Purpose and Intent

The purposes and intent of this Article are to describe the various zoning districts and establish the allowed uses, dimensional standards and other standards that govern development in each district. This Article also establishes the standards for certain zoning overlay districts and a Planned Unit Development (PUD) floating zoning district.

4.3.20 Allowed Uses

The description of each zoning district contains a table entitled Allowed Uses that establishes the uses allowed in the zoning district.

4.3.21 Principal Uses

Uses that are listed as "Principal" uses are allowed as a matter of right subject to the procedures of these regulations provided the development or use complies with all applicable standards of these regulations, including the standards of general applicability and any specific standards referenced in the Allowed Uses table.

4.3.22 Use Specific Standards

Specific standards that apply to certain uses are referenced in the Allowed Uses tables for each zoning district. The specific standards in the referenced sections apply in addition to the standards and procedures of general applicability that are established in these regulations to apply to all development and land uses.

4.3.23 Conditional uses

Uses that are listed as "Conditional" uses are allowed with a Conditional Use Permit (CUP) pursuant to Section 4.4.10, Conditional Uses. A CUP may be issued at the discretion of the Planning Board/Zoning Commission, pursuant to the procedures of these regulations, provided that the development complies with the standards of general applicability and the applicable CUP standards, and the Planning Board/Zoning Commission makes certain CUP findings of fact.

4.3.24 Conditional Use Findings

Approval of a CUP requires the Planning Board/Zoning Commission to make certain Findings of Fact as established in Section 4.4.10, Conditional Uses.

4.3.25 Accessory Uses

Accessory uses and accessory buildings as defined in Article 4.11.0, Definitions, shall be allowed in all zoning districts.

4.3.26 Uses Not Listed

If a use is not listed as a Principal, Accessory, or Conditional Use, it is not allowed in the particular zoning district.

4.3.30 Similar Use Determination

If a proposed use is not listed in the Allowed Use Table, it may be considered an allowed use if the Zoning Administrator determines the proposed use is sufficiently similar to one of the uses listed in the Allowed Uses Table.

If a Similar Use Determination is made in the affirmative, the proposed use shall be an authorized use with the same permissions and restrictions as the use to which it is determined to be similar. The Zoning Administrator shall submit a public notice for publishing in the next issue of the Carbon County News following all decisions to approve or deny a Similar Use Determination. The notice shall be in accordance with Section 4.9.60, Public Notice. Any aggrieved party may appeal the Zoning Administrator's decision within thirty (30) calendar days of the date the notice appeared in the Carbon County News, pursuant to Section 4.9.73, Appeal.

4.3.150 Public Use Zoning District 1 (P-1)

4.3.151 Purpose and Intent

The purpose and intent of the P-1 Zoning District is to provide an adequate amount of land for a variety of public and semi-public uses that serve the public health, safety and general welfare, implement the *Red Lodge Growth Policy* and protect critical natural resources. These include various public buildings, parks and recreational facilities, and open spaces. This zoning district further intends to minimize incompatibility between the public uses and neighboring private uses.

Table 4.3.152 Allowed Uses P-1		
Permitted		
Airport	Health Care Facility (i.e. clinic hospital)	Public Park, Recreation
Rodeo & Fairgrounds		Governmental Buildings, Facilities
Accessory		
Storage/Garage	Building/Shed	
Conditional		
Schools	Waste Collection	<u>Fowl, See 4.4.22.L</u>

4.3.160 Public Use Zoning District 2 (P-2)

4.3.161 Purpose and Intent

The purpose and intent of the P-2 Zoning District is to provide adequate land for schools in the heart of the City and to avoid the construction of schools in the outlying areas of the City.

Table 4.3.162 Allowed Uses P-2		
Permitted		
Schools	Governmental Buildings, Facilities	Public Park, Recreation
Accessory		
Storage/Garage	Building/Shed	
Conditional		
<u>Fowl, See 4.4.22.L</u>		

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APPENDIX 1 Planned Unit Development – (PUD-S)

Appendix 1.1 Purpose and Intent
 The purpose and Intent of the PUD-S District is to allow for various densities and types of uses that are primarily residential with potential home businesses and professional uses. **During development build-out, limited agriculture uses shall be permitted.**

Appendix 1.2 Allowed Uses
 Principal and Conditional Uses allowed in the PUD-S District are listed in Table Appendix 1.2. All Conditional Uses must comply with Section 4.4.10, Conditional Uses. Some Principal Uses shall comply with specific standards as referenced in the Table Appendix 1.2.

Appendix 1.3 Dimensional Standards, Building Typology
 Development in the PUD-S District shall comply with the Dimensional Standards and Building Typology established in following diagrams.

Appendix 1.4 Specific District Standards
 The following standards shall apply to development in the PUD-S District.
A. Retail
 Retail structures shall not exceed 5,000 square feet in gross floor area.

B. Animals
Hoofed Animals – Domestic (as defined below) shall be permitted only on parcels greater than twenty (20) acres in size zoned PUD-S with an underlying zoning of R-3; and subject to the following standards and requirements:

TABLE APPENDIX 1.2 Allowed Uses PUD-S		
Principal		
Single Family	Day Care, family See 4.4.22(B)	Home Occupation See 4.4.22(C)
Short-term Rental See 4.4.33	Public Parks & Recreation	Guest House See 4.4.22(F)
Retail, See Appendix 1.4A	Accessory Buildings	Multi-family, >2-units
Government Buildings, Facilities	Worship Facility	Cluster Condos, Townhouses
School	Day Care, Group, See 4.4.22(B)	Health Care Facility (i.e., clinic, hospital)
<u>Animals, See Appendix 1.4 B</u>		
Conditional		
Light Industrial / Manufacturing and Assembly	Outdoor Storage, See 4.4.30	Alcohol-Consumption /Sales
Auto, Vehicle Sales, Repair and Service	Drive Through Facilities	Gambling as a tertiary use
Rodeo & Fairgrounds	Waste Collection	Warehousing
Alcohol – Consumption / Sales as a Secondary Use		

1. Defintions.

Hoofed Animals – Domestic. Cattle, Horses, and Mules only are included.

Animal Unit. An animal unit shall be as follows: Horse/Mule – 1 animal = 1 animal unit; Cattle – 1 cow/calf pair or 1 bull = 1 animal unit. Young horses/mules less than 6 months of age shall not count toward the allowable number of animals; however yearling cattle shall count as 2/3 of an animal unit.

2. Density.

The maximum density shall be one (1) animal unit per two (2) acres.

3. Setbacks.

Setbacks for all Domestic Hoofed Animal uses, including but not limited, to barns, loafing sheds, corrals, arenas, paddocks, run pens, round pens, other similar structures, and fencing shall be as noted below, or as otherwise approved per Section 4 below:

>North Property Line – Seventy (70) Feet

>East Property Line – Twenty (20) Feet

>West Property Line –

---adjacent to the easterly and southerly lines of the P1P zoned park land –

Zero (0) Feet

---adjacent to the platted Spires residential lots south of the P1P zoned park area – Twenty (20) Feet

>South Property Line –

--- Twenty (20) Feet

4. Management Plan.

Prior to use of any lands for Hoofed Domestic Animals in accordance with the above noted Exhibits, a management plan acceptable to the City shall be adopted by a Resolution. At a minimum, the management plan shall address fencing, trail corridors, and all applicable development related aspects of the Spires PUD as identified in the Annexation and Subdivision Agreements of record.

5. Fencing.

All fencing shall meet the above noted setback requirements; or as may be otherwise approved by the City Council as part of the required management plan in order to provide for the protection of existing development related infrastructure (i.e. gas, electric, CTV pedestals, water, and wastewater facilities, etc.); as well as for protection of future trail corridors.

5. Vegetation.

The entire site shall at all times be maintained with vegetative groundcover; except when a best management practices standard for agrarian cultivation of locally common crops would otherwise so dictate (i.e. the growing, reseeding, and irrigating for a grass crop such as haying, etc.) Vegetative groundcover includes live native or introduced grasses and forbs, but does not include weeds or bare dirt. In areas where exposed shelf-rock or cap-rock is the natural terrain, this will be considered to be vegetative groundcover.

5. Animal Waste and Odor Standards

Manure piles shall be not be permitted outside the fenced areas and shall be maintained/composted in such a manner as to protect surface water and groundwater.

Manure piles shall not be buried. Manure piles shall be set back a minimum distance of 100' from any well, stream or waterbody. Manure shall not be allowed to create excessive odor problems, present a health hazard to surrounding lands, or result in excessive fly problems.

Adequate drainage facilities or improvements shall be provided by the landowner and constructed to protect all adjacent lands from runoff containing contaminants such as sediment or organic wastes.

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Article 4.4.0 STANDARDS FOR SPECIFIC USES

4.4.10 Conditional Uses

4.4.11 Purpose and Intent

This section establishes standards and required Findings of Fact for Conditional Uses. The purpose of Conditional Uses is to allow uses that may be suitable in some but not all locations in the zoning district in which they are allowed, or require special consideration because of unusual operational or physical characteristics, or must be designed and developed with conditions to assure compatibility with adjoining uses.

A Conditional Use Permit (CUP) may be granted to allow a Conditional Use only for a use listed as a "Conditional" use in an Allowed Uses table and only after the Planning Board/Zoning Commission has made Findings of Fact that the Conditional Use complies with the following standards. The following standards apply in addition to standards of general applicability.

4.4.12 Findings of Fact

The Planning Board/Zoning Commission shall make Findings of Fact that a Conditional Use complies with the following standards as a prerequisite to granting a CUP.

A. Consistent with Growth Policy

The Conditional Use is consistent with the policies, goals, objectives and strategies of the Red Lodge Growth Policy.

B. Compatibility

The Conditional Use is compatible with the character of the immediate vicinity including the bulk, scale, and general appearance of neighboring buildings and uses.

C. Minimizes Adverse Impact

The design, development, and operation of the Conditional Use minimize and mitigate adverse effects, including visual impact of the proposed use on adjacent lands.

D. Minimizes Adverse Environmental Impact

The development and operation of the proposed Conditional Use minimizes adverse environmental impacts. Environmental resources to be assessed include, but are not limited to, wetlands, riparian areas, steep slopes, mature vegetation and the floodplain.

E. Impact on Public Facilities and Services

The Conditional Use does not have a significant adverse impact on public facilities and services, including, but not limited to, transportation systems, potable water and wastewater facilities, storm drainage, solid waste and recycling, parks, trails, sidewalks, schools, police, fire, and EMT facilities.

F. Hazard, Nuisance

The proposed Conditional Use will not create a hazard to persons or property and will not create a nuisance arising from, but not limited to, traffic, noise, smoke, odors, dust, vibration or illumination.

G. Other Codes

The Conditional use complies with all applicable City codes and ordinances.

4.4.13 Runs with the Land

An approved CUP shall run with the land and may be transferred to another owner.

4.4.14 Expiration, Discontinuance or Abandonment

An approved CUP shall expire on the one (1) year anniversary date of approval if the permit is not put to use, unless an alternate timeline is established in the development approval. If a Conditional Use is operationally discontinued or abandoned for a period of more than twelve (12) consecutive months, regardless of the removal or non-removal of furniture/equipment or any intention to resume such activity in the future, the Conditional Use may not be reestablished or resumed. Any subsequent use of the site shall conform to this Ordinance.

4.4.20 Use Specific Standards

4.4.21 Purpose and Intent

The purpose and intent of this Section is to establish certain standards that apply to specific uses. Some uses listed in the Allowed Uses tables are required to comply with use-specific standards. The Allowed Uses tables contain references to sub-sections below that establish the use-specific standards.

4.4.22 Specific Uses

(items A – J not shown – no change proposed)

K. Fowl – Educational

Use of Fowl shall be limited to only female chickens (*Gallus gallus domesticus*).
Slaughtering of Fowl is not permitted within City limits. Fowl shall be permitted only as set forth in Ordinance No. 924.

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