

# **ORDINANCE No. 928**

**AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA,  
TO REPEAL ORDINANCES 893, 871, 868, AND 856 ALONG WITH CHAPTERS 10 AND 11 OF TITLE 8 OF  
THE RED LODGE MUNICIPAL CODE PERTAINING TO ALCOHOLIC BEVERAGES ON PUBLIC LANDS AND  
SPECIAL EVENTS PERMITS AND TO AMEND CHAPTER 8 OF TITLE 8 TO CLARIFY THE PROCESS AND  
REGULATIONS FOR THE USE OF CITY-OWNED PROPERTY**

**WHEREAS**, the streets, sidewalks, alleys, parks, trails, and other City-owned buildings and lands 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**, negative effects of such uses can be avoided or otherwise adequately mitigated; and

**WHEREAS**, it is in the public and private interest for the City of Red Lodge to regulate the use of City-Owned Property through the adoption of this ordinance to provide clear and consistent guidelines which ensure fair and uniform treatment.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL:**

Title 8 Public Ways and Public Property, Chapter 8 Use of City-Owned Property, of the Red Lodge Municipal Code is hereby amended as set forth below:

**1. Application Process:**

Use of City-owned property, including but not necessarily limited to, streets, sidewalks, alleys, parks, trails, buildings, or other lands shall be prohibited unless a permit for such use has been specifically approved in advance by the City Council as follows:

Permit: A permit shall be required if one or more of the following circumstances applies: 1) request for exclusive use of City-owned property; 2) sales of goods or services; 3) alcohol will be sold or given away for a promotional event; 4) use of Pride Park (aka. the NW corner of Broadway Avenue and 12<sup>th</sup> Street) or any sidewalk along Broadway Avenue between 5<sup>th</sup> Street and 19<sup>th</sup> Street other than by the adjacent property owner for the purpose of marketing their adjacent commercial business.

- A. An applicant shall submit a request for a proposed use of City-owned property through written application specifying such use, the area of proposed use clearly designated on an acceptably scaled map, dates and hours of proposed use, estimated number of participants, anticipated impacts on parking and traffic patterns for vehicles and pedestrians, anticipated sources of noise including proposed mitigation measures, how trash will be removed, whether or not restrooms are required and provided, any anticipated impact on Police, Fire, or Ambulance Services, use of campfires or open flames, sales of goods or services, and why exclusive use is necessary, if requested. All locations located in the rights-of-way of the Montana Department of Transportation are subject to their review and approval.

- B. Alcoholic Beverages on City-owned Property: If alcohol will be sold or given away for a promotional event on public property, the applicant will need to additionally specify control measures, server certification, obtain a properly issued permit or license authorizing the sale or service of alcohol pursuant to Montana law, and obtain a waiver of the City Open Container Ordinance. Additional fees and damage deposit may be required. All state liquor control regulations shall be complied with by the applicant and all applicable State permits shall be obtained and a copy provided to the City with the application. In reviewing the application for a permit to serve alcoholic beverages on public property, the City Council shall consider the following factors:
- a. Whether the proposed use enhances the cultural, recreational, or entertainment opportunities available to the community;
  - b. The appropriateness of the property for the proposed use;
  - c. Any potential negative impact on adjacent property or residents; and
  - d. The estimated number of people likely to be at the event, as well as the estimated amount of alcohol likely to be available.
- C. Public Health, Safety, and Welfare: The City shall have the right to impose any condition pertaining to the public health, safety, and welfare upon its approval of the permit, and shall retain the right through its Mayor to immediately revoke said permit to use City-owned property for any violation of the permit approval conditions. The City may require any applicant to provide for additional cleanup, including but not limited to recycling and street washing, on City-owned property, and for additional restrooms in amounts satisfactory to the Council. Failure to obtain permit approval in advance shall result in the City's right to cause immediate cessation of the activity and the possible issuance of a trespass citation.
- D. Evidence of Notification of Abutting Properties: The applicant shall provide, with the application, evidence of notification of each property owner or its authorized representative abutting the proposed permit site for their comment prior to the date of approval.
- E. Signed comment form from Police and Fire Departments and Ambulance Service: The City Clerk shall obtain written comments regarding the proposed use from the City Police Department, Fire Department and ambulance service.
- F. Fees:
1. At the time of application submittal, applicant shall pay all applicable review fees as set forth in the use of city property implementing resolution.
  2. If permit is approved, applicant shall pay all applicable use and deposit fees as set forth in the use of city property implementing resolution.
- G. Insurance: The applicant shall submit, with the application, a copy of the Certificate of Insurance Liability for an insured amount, and in a form, as required by the Use of City Owned Property Permit enabling Resolution. The applicant's permit shall be immediately and automatically revoked if such insurance coverage is invalid, not current, or not in effect while using City-owned property.

H. Indemnification: Applicant shall provide written Indemnification of the City as required by the Use of City Owned Property Permit enabling Resolution.

I. Daily Clean-up: Applicant shall clean the City property used by the applicant each day of use.

J. Clean-Up Deposit Refund: The applicant's clean-up deposit shall be refunded upon verification by the City that, at the sole discretion of the City, the area is trash free and has been restored to its same or better condition prior to the use by 8:00 a.m. immediately following the last day of use or as otherwise agreed upon by permit approval. Upon such verification, the applicant's clean-up deposit will be refunded on the first City business day following verification.

**2. Deadline for Filing Application:**

The deadline for filing a completed application shall be 45 days before the proposed use, but not more than 270 days (approximately 9 months). Eight (8) printed copies of the application, along with an electronic copy, shall be submitted at the time of the filing.

**3. Repealer:**

Title 8 Public Ways and Public Property, Chapter 10 Alcoholic Beverages on Public Lands and Chapter 11 Special Events Permits, of the Red Lodge Municipal Code, along with Ordinances 893, 871, 868, and 856 and all other Ordinances if any exist, and Resolutions pertaining to above noted Sections of the Red Lodge Municipal Code are hereby repealed upon the effective date of this Ordinance.

**4. 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.

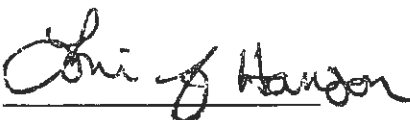
**First Reading** by the Council on the 28<sup>th</sup> day of March, 2017.

**Second Reading** by the Council on the 11<sup>th</sup> day of April, 2017.

**PASSED and APPROVED** this 11<sup>th</sup> day of April, 2017.

City of Red Lodge

By:   
Michael Schoenike, Mayor

Attest:   
Loni Hanson, City Clerk