

# **ORDINANCE No. 929**

## **AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA, TO AMEND ORDINANCE 904, RESOLUTION 3367 AND TITLE 5 - POLICE REGULATIONS, CHAPTER 5 – ANIMAL CONTROL, ARTICLE B – DOGS, OF THE CITY MUNICIPAL CODE**

**WHEREAS**, the City previously adopted Ordinance (718) for animal control in 1983 which was amended in 1996 (Ordinance 811) and in 2014 (Ordinance 904); and

**WHEREAS**, the City of Red Lodge wishes to foster a dog friendly environment; and

**WHEREAS**, the City of Red Lodge has diverse needs with the community requiring more effective enforcement and a more manageable approach to animal control issues; and

**WHEREAS**, it is important to the health, safety and general welfare of its residents and their property that dog owners accept responsibility for positive control of their pets so as to avoid risks to residents and visitors. Dog owners who allow dogs to be at large, injure individuals or animals, who abandon animals, or allow dogs to damage property need to be held accountable; and

**WHEREAS**, positive relationships between both residents and visitors regarding dog behavior can be reinforced by participating in appropriate communications; and

**WHEREAS**, this ordinance requires that all dogs be registered and that owners (as defined in 5-5B-1) may be required to pay fines to enforce the animal control requirements.

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

1. Title 5 – Police Regulations, Chapter 5 – Animal Control, Article B – Dogs, of the Municipal Code of the City of Red Lodge, Montana is hereby repealed and replaced by:

### **5-5B-1 - Definitions.**

- A. “Dog”: all members of the domesticated canine species, male or female, altered or unaltered,
- B. “Altered dog”: a dog that has been operated on to prevent it from procreating; also referred as neutered or spayed,
- C. “Owner”: any person or persons, firm, association, or corporation owning, keeping, sheltering, or harboring a dog,
- D. “Service dog”: any guide dog, signal dog, or other animal individually trained and certified 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 danger, providing minimal protection or rescue work, pulling a wheelchair or fetching dropped items,

E. "Enclosure": an area, pen, or other location on the property of the owner with a barrier sufficient to keep the dog on the property. The enclosure shall be of a suitable size to permit the animal to move around and to ensure that the area can be maintained in a clean and sanitary manner.

F. "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), electronic devices, or other methods do not provide a physical limit and therefore, are NOT suitable restraints,

G. "At large": a dog off the premises of the owner without physical restraint (leash) or out of a physical enclosure (fenced enclosure or secured portable kennel),

H. "Neglect": lack of physical care - food, water, shelter, space to move, and veterinary care and/or grooming for health and safety,

I. "Cruelty": physical abuse including overworking, beating, tormenting, torturing, injuring, or killing the animal; or as otherwise defined in Montana Code Annotated (MCA) {see Resolution},

J. "Dangerous Dog": a dog that, in the absence of provocation, attacks, bites, chases, or kills another animal; or one that has been previously found by any Court to be a dangerous dog,

K. "Vicious dog": a dog that, in the absence of provocation, inflicts bodily injury to a person; or 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 previously found by any Court to be a vicious dog,

NOTE: a dog shall not be declared dangerous or vicious if the animal or person that was injured -

1. was committing a willful trespass or other tort upon the property or premises occupied by the owner,
2. was provoking, tormenting, abusing, or assaulting the dog or can be shown to have in the past provoked, tormented, abused, or assaulted the dog,
3. was committing or attempting to commit a crime,
4. or any other mitigating circumstances recognized by the Red Lodge City Court,

L. "Impound": to seize a dog for legal evidence and/or the safety/protection of humans and/or animals and to retain in custody at an appropriately designated facility with the owner of the dog being held responsible for restitution of costs,

M. "Resolution": city document that references current penalties and fines.

#### **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 an annual license. This provision is irrespective of the dog's being licensed elsewhere.

Red Lodge City Dog licenses shall run from January 1st to December 31st, and a record shall be maintained by the City Clerk of the identifying number of all tags issued including the owner's name and contact information; the dog's name, age, breed, and description; and space for proof

(veterinarian's certification) of rabies immunization. This licensing and vaccination information shall be available at all times to the Red Lodge Police Department (RLPD).

Tags are not transferrable to a different dog, and must be worn at all times the dog is within the limits of the City of Red Lodge, unless on personal property.

**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, telephone number, mailing address of the owner, and the breed and description of the dog. For dogs over six (6) months of age, each application must also contain space for proof (veterinarian's certification) of rabies immunization.

**C. Rabies Vaccination:**

A person owning, keeping, harboring, sheltering, or having custody of any dog within the City limits shall be responsible for proving at any time that appropriate inoculations, vaccinations, or immunization to protect against rabies of said dog are current.

**D. Fees.**

There is no license fee charged for certified service dogs. All other dogs shall be charged an annual licensing fee set by Resolution of the City Council. There shall be no pro-rating of licensing fees. Should a tag be lost, damaged, or destroyed, the City Clerk may issue a replacement tag in accordance with the provisions of the Resolution of the City Council.

**E. Prohibitions/Restrictions on Licenses.**

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 fifteen (15) days.

**5-5B-3 - Offenses.**

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

- A. To keep, shelter or harbor any dog without the license as required by this article,
- B. To keep, shelter or harbor any dog that is not vaccinated as required by this article,
- C. To allow a dog to be off-leash when accompanied by a person or at large, unrestrained and not in an enclosure,
- D. To fail, or refuse, to pick up and properly dispose of feces deposited by one's dog on public or private property,
- E. To disturb the peace by barking, whining or howling, specifically for a period of 20 consecutive minutes or more out of one hour,
- F. To trespass within fenced areas or interiors of buildings on school grounds,
- G. To damage public or private property (not belonging to the owner),
- H. To neglect or engage in cruelty to animals as provided by this ordinance and current MCA statutes,

- I. 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, and/or
- J. To attack, bite or chase a person (vicious dog), other animal (dangerous dog) or passing vehicle.

**5-5B-4 - Penalties and Fines.**

Penalties and fines may accrue for multiple offenses, (e.g., running at-large, not licensed and being on school property would constitute 3 separate offenses). See relevant Resolution for list of specific penalties and fines.

**A. Penalties and fines for Non-Violent Misbehavior (At-large/Outside of Enclosure; Barking, Whining or Howling; Feces; Off-Leash, Damage to Property; No license; No Vaccination; Trespass within Fenced Areas or Interiors of Buildings on School Grounds)-**

- 1. First offense- the RLPD shall inquire whether the dog owner and complainant have communicated and attempted to reach a resolution. An educational pamphlet about responsible dog ownership shall be provided to the dog owner. The RLPD shall issue both a verbal and written warning. One week shall be allowed for compliance.

If the offense involves rabies vaccination and/or licensing, the owner must secure such within two (2) business days and request that the City Clerk report such to the RLPD. If this condition is not met, the RLPD shall issue a prompt citation and the matter shall rise to a “second offense” status.

- 2. Second offense- If after two weeks the offense continues, the RLPD shall issue a citation to the dog owner pursuant to Resolution.
- 3. Third and subsequent offenses- If after 72 hours of the issuance of a second or subsequent citation any offenses continue, the RLPD shall issue additional citations pursuant to Resolution.

**B. Penalties and Fines for Damage to Property:**

Any offense: The RLPD shall issue a citation pursuant to Resolution.

**C. Penalties and Fines for Violent Behavior (Attacking/Biting):**

Due to the nature of such offenses, warnings are deemed to be inappropriate.

- 1. First offense- The RLPD shall issue a prompt citation pursuant to Resolution.
- 2. Second offense- The RLPD shall issue a prompt citation pursuant to Resolution and require that the dog be secured solely on the owner’s property until a City Court hearing.
- 3. Third and Subsequent offenses- The RLPD may impound the dog and issue a prompt citation pursuant to Resolution.

**D. Penalties and Fines for Neglect and Cruelty to Dogs:**

1. First offense (Neglect): The RLPD shall issue a prompt written warning, require immediate improvement, and check back within 2 days and periodically as needed to observe compliance.

First offense (Cruelty): The RLPD shall issue a prompt citation pursuant to Resolution.

2. Second offense: The RLPD shall issue a prompt citation pursuant to Resolution.
3. Subsequent offenses- The RLPD shall turn the issue and/or the dog over to the Carbon County Sheriff's Office for appropriate continuation of penalties under MCA.
4. For the purposes of this subsection, when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.
5. This section does not prohibit:
  - a. A person humanely destroying an animal for just cause,
  - b. Lawful scientific or agricultural research or teaching that involves the use of animals,
  - c. Services performed by a licensed veterinarian, or
  - d. Accepted training and discipline methods.

#### **5-5B-5 - Special Provisions:**

A. If the RLPD has investigated and determined that a dog is dangerous or vicious, and the dog is not, or cannot be restrained or placed in a proper enclosure by the owner, the RLPD may impound the dog at the owner's expense.

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

C. Any dog running at large which appears to be rabid, mad or unduly dangerous to the public may be destroyed on the spot by RLPD when it appears that such action is necessary to protect persons or other animals from imminent danger.

D. The provisions of this ordinance do not apply to dogs that are trained and used by law enforcement officials for police or similar work.

#### **5-5B-6- Repealer:**

Ordinance 904 and Title 5, Chapter 5, Article B - Dogs; are hereby repealed in its entirety. All other Ordinances, Resolutions, and Documents of the City of Red Lodge, Montana, pertaining to above noted Sections of the City Municipal Code are also repealed upon the effective date of this Ordinance.

#### **5-5B-7 - Effective Date:**

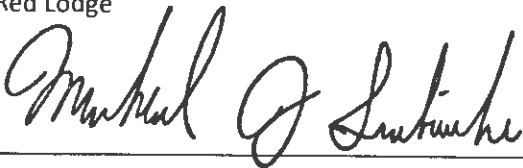
This Ordinance shall be effective 30-days after approval of second reading by the City Council of the City of Red Lodge, Montana.

**First Reading** by the Council on the 23rd day of May, 2017.


**Second Reading** by the Council on the 13th day of June, 2017.

**PASSED and APPROVED** this 13th day of June, 2017.

City of Red Lodge

By: 

(Mike Shoenike, Mayor)

Attest: 

(Loni Hanson, City Clerk)