

ORDINANCE NO. 939

AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA, TO MANAGE THE MAINTENANCE OF TALL GRASS

WHEREAS, the City Council of Red Lodge has the power to declare and determine what vegetation within the City shall be Nuisance Weeds (Tall Grass) and provide for the elimination of Nuisance Weeds; and

WHEREAS, the City Council considers that Nuisance Weeds (Tall Grass) within the City limits constitutes a public health and safety concern; and

WHEREAS, the City Council determines that the designation of certain vegetation as “Nuisance Weeds” may contribute to confusion about the difference between Noxious Weeds and Nuisance Weeds and will therefore refer to “Nuisance Weeds” as Tall Grass; and

WHEREAS, the eradication of nuisance weeds is a power of the city to declare and control under *§7-22-4101, MCA*.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL:

1. The Municipal Code of the City of Red Lodge, Title 4 – Chapter 3 – Article B, is hereby amended as set forth below:

CHAPTER 3 WEEDS

Article B – Tall Grass - Hazardous Vegetation

Section:

4-3B-1: Definitions.

4-3B-2: Prohibited.

4-3B-3: Exceptions.

4-3B-4: Acceptable Methods of Control.

4-3B-5: Notice to Destroy.

4-3B-6: Appeal.

4-3B-7: Noncompliance - City Action.

4-3B-8: Violation - Penalty.

4-3B-1: Definitions.

- A. “Developed parcel” means any parcel of land that has been used or is being used for commercial or residential use with a principal structure covering over five percent (5%) of the parcel.
- B. “Tall Grass” (formerly known as nuisance weeds) consists of hazardous vegetation, weeds, grass and uncared for vegetation growing to a height in excess of twelve inches (12”) on property located within the City limits.
- C. “Person” means: the title owner(s), representative(s) of any title owner, occupant(s), lessee, contract purchaser, or any other person or representative of any entity which holds a legal or equitable interest in any parcel.

- D. "Premises" means a piece of land and the buildings on it.
- E. "Property" includes both developed and undeveloped parcels within the boundaries of the City.
- F. "Undeveloped parcel" means any parcel of land zoned for but not currently being used for commercial or residential use.

4-3B-2: Prohibited.

No person as defined in 4-3B-1, within the city limits of Red Lodge shall permit Tall Grass to exist on their property, lot or area inclusive of Boulevards or the one-half of any public Streets, Roads, Avenues, Rows or Alleys adjacent thereto. No lands within the city limits shall contain Tall Grass, as defined in this article, between June 1st and September 30th of each year.

4-3B-3: Exceptions.

- A. Property/lots in excess of fifteen thousand (15,000) square feet.
- B. Property that is inaccessible or impractical for mowing or removing weeds including, but not limited to, wet areas (whether or not regulated wetlands), forested areas, excessive slope or ground instability, and tree covered areas in parks, shall be exempt.
- C. Active Pastureland: Property used as pastureland, in accordance with the City Municipal Code, for horses, mules, and cattle is an acceptable control method within the City, unless said property becomes overgrazed and ceases to comply with this Code.

4-3B-4: Acceptable Methods of Control.

- A. Mechanical: Mowing, motorized or otherwise.
- B. Organic: The use of goats so long as they are only within the City limits for weed control and are confined generally to the area of weed control. Goats shall not be allowed to reside in the City limits. If working under contract on weed control, goats may spend as many days on a location as needed. (Red Lodge Municipal Code 4-1-22)

4-3B-5: Notice to Destroy

A. Official Notification.

The City Clerk or designee shall give notice to cut or remove tall grass within the City limits by publishing notice to the public at least once each week for two (2) consecutive weeks in a newspaper of wide circulation within the City and on the city website. The last publication shall be on or before May 8th. Such notice shall, at a minimum, advise the public as follows:

1. That all owners/persons of real property are responsible for cutting or removing all tall grass in prohibited areas not later than June 1st of each year and to keep the areas free of tall grass through September 30th of that year.

2. Failure to cut or remove the tall grass may result in the city contracting with local businesses to mow the tall grass. If the City removes or cut the tall grass, all charges for the cost of mowing, an administrative cost equal to twenty-five (25) percent of cutting/removal cost along with legal and administrative fees of twenty-five dollars (\$25.00) will be billed to the property owner.

In the event, the City be required to contract with local businesses during a calendar year for a second removal, the cost and penalties will be as follows:

Second Removal-all charges for the cost of mowing, in addition to the administrative cost of twenty-five (25%) of cost of cutting/removal, a Fifty (\$50.00) legal and administrative fee will be billed to the property owner.

Third or subsequent removal-all charges for the cost of mowing, in addition to the administrative cost of twenty-five (25%) of cost of cutting/removal, a Seventy-Five (\$75.00) legal and administrative fee will be billed to the property owner.

B. On or before June 1st, the City will provide a complaint form on the City's website, cityofredlodge.net and at City Hall for any resident of Red Lodge to file a Tall Grass complaint. The complaint must include the property location and owner if the owner's name is known. Complaints can be made anonymously.

C. Upon the filing of a complaint, the City shall mail an information pamphlet to the property owner. The pamphlet shall state that it is an official fourteen (14) day notice and is an order for action. The information contained in the pamphlet shall state that the existence of tall grass at any time throughout the growing season is a City Code violation and is a public health and safety concern.

The information pamphlet provided shall contain the names and phone numbers of local businesses that provide mowing services.

All notices shall contain the following language:

FAILURE TO COMPLY WITH THIS FOURTEEN (14) DAY NOTICE SHALL RESULT IN THE CITY REMOVING ALL TALL GRASS ON YOUR PROPERTY. THE PERSON SHALL REMIT PAYMENT TO THE CITY OF RED LODGE WITHIN FIFTEEN (15) DAYS FROM THE DATE OF MAILING. AFTER RECEIPT OF THE COST FROM THE CITY, YOUR FAILURE TO PAY THE COST OF REMOVAL OF TALL GRASS ON YOUR PROPERTY SHALL BE LEVIED AGAINST THE PROPERTY. COSTS INCLUDE THE ACTUAL COST OF REMOVAL/MOWING, LEGAL AND ADMINISTRATIVE FEES.

D. The Mayor shall designate the responsibility for removal of tall grass on City property to the relevant City department(s).

4-3B-6: Appeal

In the event an owner/person disagrees with a notice of violation, the owner or their designee may appeal a violation notice to the Mayor within ten (10) calendar days of mailing of the Notice/Pamphlet by the City. An appeal must be in writing and mailed to the City Clerk. The appeal must state specifically the basis of the appeal and why the tall grass ordinance does not apply to the appellant. The Mayor shall review the appeal and determine the validity of the owner's basis for objecting to the action ordered. The Mayor shall notify the

owner of the decision reached within seven (7) calendar days. For good cause shown, or in cases of extreme hardship, the Mayor may determine that the provisions of this Ordinance are inapplicable to a certain parcel. Decisions of the Mayor are final and subject only to judicial review.

4-3B-7: Noncompliance - City Action.

A. Upon the failure, neglect or refusal of the owner(s), or designee, to remove the tall grass within fourteen (14) calendar days of notification, the City shall order the tall grass removed as specified in the pamphlet/notice.

B. Upon the completion of removal of tall grass, the City shall mail a bill to the person as defined in 4-3B-1. The person shall remit payment to the City of Red Lodge within fifteen (15) days from the date of mailing. If payment is not received within fifteen (15) calendar days, the City shall coordinate with Montana Department of Revenue for the total cost and fees to become a levy against the property tax bill for each lot affected. The cost of removal of the tall grass charged against the property owner shall include all legal and administrative fees as set forth in 4-3B-5(2).

C. In the event an owner or person of any parcel(s) continues to allow tall grass violations after the first notification and eradication by the City, the city has the sole discretion to remove the tall grass without any additional notice to the owner. This applies to the same parcel(s) that has been cut by the City during the preceding six (6) months. Cost and penalties in 4-3B-5 (2), will be assessed for each time the city removes the tall grass.

4-3B-8: Violation - Penalty.

The City reserves the right, to issue a citation for a misdemeanor to any person violating a provision of this Chapter. Additionally, when a person has refused access to the property by City Staff or an agent of the City for purposes of Tall Grass removal, the person shall be issued a citation and be punished by a fine not to exceed two hundred and fifty dollars (\$250.00) per parcel. The penalty under this section is in addition to the City's recovery of all costs for Tall Grass removal which includes cost of eradication of tall grass, legal and administrative fees.

2. Repealer

This Ordinance repeals Ordinance 890 and Ordinance 890-A 1st Amendment. All other Sections of the Municipal Code, Ordinances, Resolutions, and Documents of the City of Red Lodge, Montana, pertaining to above noted Sections of the City Municipal Code 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 22nd day of May, 2018.

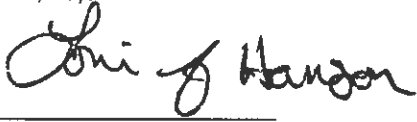
Second Reading by the Council on the 12th day of June, 2018.

PASSED and APPROVED this 12th day of June, 2018.

City of Red Lodge

By: 

William Larson, Mayor

Attest: 

Loni Hanson, City Clerk