

ORDINANCE No. 887-1ST Amended

AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA, TO AMEND THE MUNICIPAL CODE PERTAINING TO BREATH TEST. AMENDING TITLE 6-1-11 OF THE RED LODGE MUNICIPAL CODE.

WHEREAS, The State of Montana and the City of Red Lodge have determined that having physical control of a motor vehicle while in an impaired condition presents a significant risk to the public safety and general welfare; and

WHEREAS, The provisions of Montana Law allow municipal governments to regulate traffic upon streets within the Corporate limits; and

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

WHEREAS, Montana Law grants authority and powers to local governments to regulate the operation of motor vehicles by a person under the influence of alcohol and/or drugs.

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:

Section 6-1-11: REFUSAL TO SUBMIT TO BREATH TEST.

6-1-11 A Purpose and Intent

6-1-11 B Unlawful to refuse to submit to a breath test.

6-1-11 C Penalties.

6-1-11A: **Purpose and Intent**

Any person operating or in actual physical control of a motor vehicle while under the influence of alcohol and/or drugs creates a significant risk to public safety, health and general welfare. To help secure public safety, health and general welfare for all persons, the City of Red Lodge adopts this chapter in an effort to deter persons from engaging in this dangerous activity. This chapter is adopted pursuant to Montana Code Annotated 7-14-4102 and 7-14-4103 as well as pursuant to the exercise of the City of Red Lodge's self-government powers granted by the City of Red Lodge Charter.

6-1-11B: **Unlawful to refuse to submit to a breath test.**

If an officer has reasonable grounds to believe a person has been driving or has been in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two, then it is unlawful and constitutes a misdemeanor offense for that person to refuse to submit to one or more breath tests to detect alcohol and/or drugs requested and designated by any peace officer as defined by Montana State law. Prior to charging a person with a

violation of the section a peace officer must inform the person requested to take the designated test that refusing the breath test is a misdemeanor offense under the Red Lodge City Code and identify the penalties associated with the offense. If any arrested person refuses to submit to one or more breath tests requested and designated by a peace officer as provided by Montana State Law, the refused test may not be given. However, the person refusing to submit to any such requested breath test may be charged with a misdemeanor offense pursuant to this section.

6-1-11C: Penalties.

The penalties for a violation of this chapter are established pursuant to this section. Incarceration is not a penalty for violation of this chapter. A person convicted under this chapter shall be subject to a fine of Five Hundred (\$500) Dollars, no portion of which may be suspended, waived or deferred by the court.

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 are repealed upon the effective date of this Ordinance.

3. Effective Date.

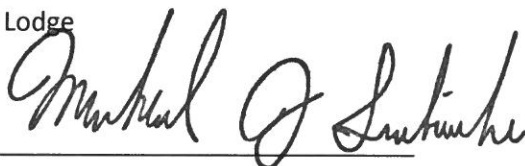
This Ordinance shall be effective 30-days after approval of second reading by the City Council of the City of Red Lodge, Montana.

First Reading by the Council on the 14th day of February, 2017.

Second Reading by the Council on the 28th day of February, 2017.

PASSED and APPROVED this 28th day of February, 2017.

City of Red Lodge

By: 

Michael Schoenike, Mayor

Attest: 

Loni Hanson, City Clerk