

Ordinance NO. 917

An Ordinance establishing Title 12, Chapter 6 of the Red Lodge City Code concerning annexation of lands into the City of Red Lodge and modifying certain sections of Title 10 to be consistent with the new Title 12, Chapter 6

WHEREAS: Montana Code 7-2-42 establishes that local government has control over annexations of land to the City and the right to impose conditions upon such annexations, AND;

WHEREAS: The Red Lodge City Council recognizes that development just outside of the city limits can have significant impacts on the City, AND;

WHEREAS: The Red Lodge City Council has a responsibility to balance the benefits of expanded city limits with the costs of extending city services, AND;

WHEREAS: The Red Lodge City Council identified the need to develop a comprehensive and fair method for the consideration of proposed annexations to the City,

Now Therefore,

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA;

The previously existing Title 12, Chapter 6: Annexation is hereby repealed.

A new Title 12, Chapter 6: Annexation is hereby adopted as follows:

Chapter 6

Annexation

Section:

12-6-1: Purpose

12-6-2: Methods of Annexation

12-6-3: Goals

12-6-4: Implementation Policies and Criteria

12-6-5: Public Information

12-6-1: Purpose.

These annexation policies set forth a framework for phasing the growth of the City of Red Lodge. The primary goal of these policies is to ensure efficient delivery of adequate public services to new development as it occurs in a manner that is mutually beneficial to the City of Red Lodge, the citizens of the community, and the developers of land near the borders of the city. These policies aim to guide development outside, but near the City of Red Lodge, that is consistent with the values of this community. The Red Lodge Growth Policy, Red Lodge Zoning Regulations, Red Lodge Subdivision Regulations and Red Lodge Floodplain Regulations are the established documents.

12-6-2: Methods of Annexation

Montana Code provides five (5) general methods for the annexation of land into a municipality. (MCA Title 7 Chapter 2 Parts 42 – 47) MCA 7-2-42 establishes that the City Council of the City of Red Lodge has

control over annexations of land to the City and the right to impose conditions upon such annexations. The Council may in its discretion select one of the annexation procedures of parts 43 through 47, which is appropriate to the circumstances of the particular annexation. The Council must then follow procedures prescribed in the selected part. The Five (5) methods for annexation are:

1. Annexation of Contiguous Land (MCA 7-2-43)
2. Annexation of Contiguous Government Land (MCA 7-2-44)
3. Annexation of Wholly Surrounded Land (MCA 7-2-45)
4. Annexation by Petition (MCA 7-2-46)
5. Annexation With the Provision of Services (MCA 7-2-47)

12-6-3: Goals

Regardless of the method of annexation, the City shall pursue the following annexation goals when reviewing a proposed annexation. These goals are consistent with the Red Lodge Growth Policy.

1. Encourage the highest intensity of growth to locate within the City's corporate limits.
2. Encourage urban land development that is consistent with the Red Lodge Growth Policy and the existing zoning.
3. Ensure that adequate public services, facilities, **parks**, and publicly owned utilities are available to proposed and existing development with additional required infrastructure installed within a mutually agreed upon time period.
4. Encourage land use patterns that will increase the availability of appropriately priced housing for all economic segments of the Red Lodge population.
5. Supply sufficient, safe, suitable housing sites and housing supply to meet projected future housing needs for Red Lodge over the next ten (10) years.
6. Reduce impacts from flooding; encourage efficient stormwater management; and ensure the groundwater of Red Lodge is protected and preserved.
7. Ensure that the benefits provided to the newly annexed territory are consistent with the tax base received by the City to provide for those benefits and services.
8. Ensure the long-term availability of clean water supplies for the various needs of the City and its residents.
9. Ensure development patterns encourage efficient multi-modal transportation systems coordinated with regional, City and County transportation plans.
10. Inform the public of all annexation proceedings, in full accordance with state law.
11. Consider citizens' concerns during the annexation process.

12-6-4: Implementation Policies and Criteria

- A. Timing of annexation proposals will be determined based on what is most beneficial to the citizens of the community, including incorporated areas and unincorporated areas within reasonable distance or adjacent to corporate limits which are consistent with the Growth Policy and Zoning Regulations.
- B. **Required Material.** The annexation request shall include a description of the proposed area for annexation, a map depicting the proposed annexation area, a list of all property owners in the territory proposed for annexation including a mailing address for each, a legal description and/or geocode for every parcel within the proposed annexation area, a general description of proposed public improvements, and an application fee.
- C. **Fees.** A fee shall be charged for any petition for annexation. These fees must be paid at the time of petition. The fee schedule shall be established by resolution. No fees shall be charged for any annexation proceeding initiated by the City.
- D. Municipal Boundaries
 - 1. The City of Red Lodge will only approve annexations that are contiguous with the existing City boundaries or within ¼ mile of the existing contiguous boundaries of the City and which are consistent with the Growth Policy and Zoning Regulations.
 - 2. To maintain efficient provision of city services, Red Lodge will discourage annexations that would result in irregular city boundaries.
 - 3. Unincorporated Islands (Wholly Surrounded Lands)
 - a. The City of Red Lodge should actively pursue annexation of unincorporated islands within its urban growth and Planning Jurisdiction Boundaries.
 - b. To the extent possible, Red Lodge will not allow annexations that create new unincorporated islands or unincorporated areas substantially surrounded by annexed areas.
 - c. The City of Red Lodge will approve annexations that lessen the size of existing unincorporated islands if it is not feasible to annex the entire island.
 - 4. Annexations will include the largest reasonable area contiguous to city limits that still results in logical city boundaries.
- E. Comprehensive Planning and Zoning
 - 1. **Consolidation of Development Applications.** The applicant(s) for annexation may consolidate development applications, such as subdivision, planned unit development, design review, sign permits, conditional use permit(s), and amendment to the Red Lodge Growth Policy, with an application for annexation. Consolidated development applications shall include all application submittal

materials required by each development application and shall follow the strictest procedures and noticing requirements of the relevant applications. The total application fee for consolidated development applications shall be the sum of fees for each development application.

2. Lands developed outside of the City Limits in a manner inconsistent with the relevant zoning and / or the Red Lodge Growth Policy shall be required to bring such developments into compliance with Growth Policy Goals and the zoning before annexation may be approved.
3. Land use designations assigned at the time of annexation will be continued on annexed properties for at least one (1) year following annexation.

F. Extension of Services

1. Red Lodge will support extensions of public water and sewer services only to areas annexed into the city. Such services shall not be provided beyond the city limits. This ordinance shall have no impact upon agreements for services beyond the city limits established and filed before the passage of this ordinance.
2. Owners of unincorporated properties must annex to receive City water or sewer service if the properties are contiguous to city limits and are configured in a manner that conforms to annexation policies.
3. Red Lodge will consider the existing boundaries of special purpose districts when reviewing annexation proposals. Affected districts will be notified and provided the opportunity to comment on annexation proposals.
4. Annexation proposals that include property proposed for development that will require connection to City Utilities such as water, wastewater, or stormwater shall include engineering plans for such connection for City approval at the time of annexation petition.

G. Public Hearing

1. The Planning Board and the City Council shall both hold public hearings on the proposed annexation and development. The City Council shall hold final decision making authority on the annexation. All other related permits and approvals shall be determined by the entities that normally have those authorities. All annexation proceedings will be conducted in full accordance with state law and 12-4.9 of the Red Lodge Zoning Regulations
2. **Coordinated Zoning Hearing.** In accordance with MCA § 76-2-303(3), the City may conduct an annexation hearing in conjunction with a hearing on the zoning of the proposed annexation, provided that the proposed municipal zoning regulations for the annexed property are consistent with the Red Lodge Growth Policy.

3. **Coordinated Hearings.** In accordance with MCA § 76-3-601(2)(d), when a proposed subdivision in the County is also proposed for annexation to Red Lodge, the Council, by and through the administrator and the Planning Board, shall coordinate the subdivision review and annexation procedures as well as any other related applications to minimize duplication of hearings, reports, and other requirements whenever possible.

H. Approval

1. The Planning Board shall make a recommendation and the City Council may approve, deny, or approve with conditions any proposed annexation.
2. At the public hearings, the following criteria shall be evaluated by both the Planning Board and the City Council. Conditions of approval may be imposed based on the criteria, the goals stated in 12-6-3, or other circumstances / impacts that warrant mitigation.
 - a. Does the proposal encourage the highest intensity of growth to locate within the City's corporate limits? If the highest intensity of growth is just outside the City, the corporate limits may be expanded to bring that growth within the jurisdiction of the City.
 - b. Does the proposal compliment urban growth within the city limits with appropriate development of land already within the City based on the existing zoning? Proposals that include development of lands on the edges of the City while vacating existing parts of the City should be discouraged.
 - c. Does the proposal ensure that adequate public services, facilities, parks, and publicly owned utilities are available to proposed and existing development with additional required infrastructure installed within a mutually agreed upon time period? Any park lands within the proposed annexation area must be deeded to either the City or the County. Bonds for the satisfactory completion of infrastructure, Special Improvement Districts (SIDs) for the installation or improvement of infrastructure, or waivers of the right to protest SIDs for such improvements may be required. Such SIDs may not be removed until all associated infrastructure is satisfactorily completed.
 - d. Does the proposal encourage land use patterns that will increase the availability of appropriately priced housing for all economic segments of the Red Lodge population?
 - e. Does the proposal help to supply sufficient, safe, suitable housing sites and housing supply to meet projected future housing needs for Red Lodge over the next ten (10) years?

- f. Does the proposal reduce impacts from flooding; provide efficient stormwater management; and ensure the groundwater of Red Lodge is protected and preserved?
 - g. Does the proposal provide for a reasonable balance of required services and new tax revenue to pay for those services? The Planning Board and the City Council shall consider a cost/benefit analysis to ensure that the City is not taking on unfunded liabilities or over-extending its infrastructure. New liabilities and extensions of infrastructure must be accompanied by a reasonable expectation of new revenue to pay for such expenses including not only construction but also ongoing operations and maintenance. Such a cost/benefit analysis should be primarily for the purpose of determining appropriate annexation boundaries and timing, and may analyze several alternatives to provide a range of options.
 - h. Does the proposal place demands upon the City's water supply that cannot be provided? If the proposed annexation creates demands for water that cannot be provided, the petition may be denied. Any water rights associated with any land proposed for annexation that may be potentially suitable for use within the city's public water system shall be transferred to the City as a condition of approval. This determination shall be made by the City Council with advice from the Public Works Director.
 - i. Does the proposal provide development patterns that will encourage efficient multi-modal transportation systems are coordinated with regional, City and County transportation plans?
3. All conditions of approval of the annexation must be met before either a final plat may be filed or a building permit may be issued, unless other timelines are stipulated within the condition of approval.

12-6-5: Public Information

The City of Red Lodge will make available to any interested person annexation information sheets that explain the process and benefits of annexing into the City of Red Lodge.

The following sections of Title 10 of the City Code are hereby modified as indicated below to maintain consistency with the new Title 12, Chapter 6:

10-3-5 Service Application Prerequisites.

An application to establish an account for City water/wastewater service shall be accepted by the utility only for property that:

- A. Is located within the utility's water and/or wastewater service area;
- B. Fronts and abuts a public water line and/or public sanitary sewer;
- C. Has a water/wastewater service line stubbed to the property line of the property to be served;

D. Has building and yard plumbing meeting the requirements of the latest edition of the uniform plumbing code;

E. Has filed with the County Clerk and Recorder an annexation agreement if the property to be served is located outside the City limits and has provided evidence of such filing to the utility (Only annexation agreements for the extension of water or sewer established before 2015 apply, In accordance with 12-6-4 (F-1), the city shall not provide additional services beyond the city limits); and

F. Has paid to the utility all applicable construction fees, impact fees, and permit fees. (Ord. 835, 5-12-1998)

10-14-3 Annexation Requirements.

A. Annexation Required; ~~Waiver: As required in 12-6-4(F-1), all properties to be included within the water and/or wastewater service areas shall be annexed. or an attempt at annexation shall be made first and before any area enlargement applications may be considered. Further, that whenever possible, the property being considered for inclusion in the service areas shall be annexed to the City rather than accepting waivers of the property owner's right to present annexation of said property to the City. Waivers may be accepted by the City in its sole discretion only in those particular cases where good and sufficient cause is shown and a hardship would result if waivers were not accepted. Any waivers must be in legal form as approved by the City Attorney; be recorded with the County Clerk and Recorder; run with the land; and shall be signed by owners of the majority of the land area and by a majority of the land owners of the area to be considered for inclusion in the service areas.~~

B. Petition: A prospective applicant shall first petition the City to annex the property involved prior to submission of a water and/or wastewater service area enlargement application. The City Council shall then consider such petition.

C. Notice of City Action: The City shall notify, in writing, the prospective applicant of denial of annexation ~~or right to file waivers or both~~, and approval or denial of enlargement of the service area. If approved the applicant shall be notified as to when the requirements set forth in this section have been satisfactorily completed and when said applicant is authorized to proceed with the service area enlargement application. (Ord. 835, 5-12-1998)

10-14-5 Prerequisites to Application.

The following conditions shall be met prior to making application for enlargement of the water and/or wastewater service areas:

- A. The property at the time the application is filed:
 - 1. Shall be contiguous to the boundary of the water and/or wastewater service areas as same exists;
 - 2. Shall entirely fall under the City's Growth Policy~~master plan~~.
- B. Applicant shall complete annexation requirements.
- C. Provided, that should a state or federal governmental entity, as a condition of providing funds or grants, require that service be extended to other areas outside the scope of this section, the City

Council may, upon receipt of application for waiver and upon a proper showing, waive the requirements of this section.

Information concerning the prerequisite conditions set forth in this section may be obtained from the City Clerk during normal working hours at the City Hall. (Ord. 835, 5-12-1998)

10-14-7 Public Hearing.

At the time of completion of annexation, the annexed territory shall automatically be included in the service area. ~~Public hearings for such annexation shall be held as defined in 12-6-4 (G) ; however, before officially acting upon any application for enlargement of the service area into an unannexed area, the City Council shall hold a public hearing thereon and shall give public notice of hearing upon each such application published once each week for two (2) consecutive weeks in a newspaper of general circulation in the county. Said notice shall set forth the time and place of the public hearing and shall be published not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing. (Ord. 835, 5-12-1998)~~

10-15-19 Extensions Outside Corporate Limits. (RESERVED)

~~All extensions of public facilities which are intended to provide water and/or wastewater service to properties situated outside the boundaries of the corporate City limits shall be approved in advance by the City Council and shall be subject to and comply with all the provisions set forth in this chapter for extensions within the corporate City limits if said public facilities are to be either directly or indirectly connected with the City's systems. In addition, first and before the City shall approve the application for such type extensions, the City Clerk shall have on file a written certification executed by the Carbon County Commissioners wherein the Commissioners shall have certified that:~~

~~A.—Conformance with Chapter: The design, construction, inspection, and testing of the public water and wastewater facilities to be extended will in all respects comply with and conform to the provisions set forth in this chapter for extensions within the corporate City limits;~~

~~B.—Maintenance District: The County Commissioners will create a maintenance district for the public water and/or wastewater system facilities to be extended as authorized by Montana Code Annotated Section 7-12-2120 prior to authorizing the construction of said facilities; and~~

~~C.—Transfer of Operation, Control and Ownership: Upon annexation by the City of the property served by the extended public water and/or wastewater system facilities, the County Commissioners will transfer the operation, control, and ownership of said facilities to the City as provided for by Montana Code Annotated Section 7-12-2126. (Ord. 835, 5-12-1998)~~

Effective Date.

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

Be It Ordained By the Council Members of the City of Red Lodge.

First Reading by the Council on the ___ day of _____ 2015.

Second Reading by the Council on the ____ day of _____ 2015

PASSED AND APPROVED BY NO LESS THAN FOUR MEMBERS OF THE RED LODGE CITY COUNCIL THIS ____ DAY OF _____ 2015.

The City of Red Lodge

By: _____
Ed Williams, Mayor

Attest: _____
Loni Hanson, City Clerk