

ORDINANCE 24-5890

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY REVISING SECTIONS 24-457, 24-467, 24-473, 24-1004 AND REPEALING 24-1005 and 24-1006

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Section 24-457 of the Billings Montana City Code (BMCC) is amended so that such section shall read as follows:

SECTION 24-457. Violations

A violation of the provisions in Division 4 – Parking Meters and Zones is designated as a municipal infraction. Alleged violations shall be enforced under and subject to the penalties and procedures as provided in Sec. 24-1004.

Section 2. That Section 24-467 of the BMCC is amended so that such section shall read as follows:

SECTION 24-467. Failure to pay parking fees

A person who parks in a non-metered city parking space controlled by limited time parking signs is required to pay an hourly or monthly parking fee in the manner and at the time set by the City. Failure to pay the fee when due is designated as a municipal infraction and an alleged violation shall be enforced under and subject to the penalties and procedures as provided in Sec. 24-1004. Each violation that occurs is a separate offense.

Section 3. That Section 24-473 of the BMCC is amended so that such section shall read as follows:

SECTION 24-473. Penalties

Violations of the provisions in Division 5 – Fire Lanes are designated as municipal infractions.- An alleged violation of the provisions in Division 5 – Fire Lanes shall be enforced under and subject to the penalties and procedures as provided in Sec. 24-1004.

Section 4. That Section 24-1004 of the BMCC is amended so that such section shall read as follows:

SECTION 24-1004. Parking violation – Procedure generally

(A) Violation for improperly parked vehicle.

1. Whenever any motor vehicle, unattached trailer, or unattached camper, with or without a driver, is found parked or stopped in violation of any of the restrictions imposed by ordinance of this City or by state law, the vehicle may be cited for the appropriate parking violation. The citation shall be in a form authorized by the city. The city employee issuing the citation shall note the vehicle's license plate or vehicle identification number and any other information concerning the vehicle that will identify it and, if the driver is not present, shall serve the citation by placing same on the vehicle, by serving the citation on the owner/operator of the vehicle in person, or by serving the citation by regular mail on the registered owner at the registered owner's address as shown on the records of the motor vehicle division of the owner's state of residence.
2. The registered owner of a vehicle at the time the violation occurred shall be liable for all fines, fees and penalties related to the specific violation.
3. The registered owner at the time a vehicle is found to be in violation of any provisions of this article shall remain liable for all violations despite having subsequently sold, transferred, or otherwise conveyed the vehicle.

(B) **Citations.**

Employees under the supervision of the Parking Manager, as well as code enforcement personnel, college campus police, airport police and those under the supervision of the Chief of Police are authorized to provide enforcement of parking regulations and issue related citations for parking violations as set forth in the BMCC or violations of MCA Title 61 (Motor Vehicles) and MCA 49-4-302 (Disability Parking Permits). Employees under the supervision of the Parking Manager and under the supervision of the Chief of Police are authorized to immobilize and/or impound a vehicle in accordance with this section.

1. The form of the citation shall be designated by the City, but shall contain in substance the following information:
 - a. A statement that the citation represents a determination that a violation of this article or other parking prohibition has been committed by the owner or user of the vehicle and that the determination shall be final unless contested as provided by this article;
 - b. A statement that failure to pay a violation may result in immobilization and/or impoundment of the vehicle for which the owner may be liable for penalties and fees, including towing, handling and storage costs;
 - c. A statement of the specific provision of this article violated and for which the citation was issued;
 - d. A statement of the monetary penalty established for the parking violation, including that the violation may subject the owner to additional administrative fees if not paid within twelve (12) calendar days of the date of issuance of the citation; and

- e. Information advising the owner of the vehicle that they must admit the violation and pay the associated penalty, or deny the violation and request an appeal pursuant to BMCC 24-1004(D).
2. The citation represents a determination that a violation has been committed, and such determination shall be final unless contested as provided herein.
3. Nothing herein shall be deemed to invalidate any previous notice or citation issued by the City regarding a violation under this article or other parking prohibition.
4. The original citation must be filed with the Parking Division and may be disposed of only by official action of the City or by payment of a fine to the Finance Department or Parking Division.

(C) Response to citation required.

1. Any person who receives a citation of a violation of this article shall respond to such citation as provided herein within twelve (12) calendar days of the date of the issuance of the citation, by either paying the penalty set forth in the citation or requesting an administrative appeal pursuant to subsection D of this section. If the person receiving the citation fails within twelve (12) calendar days to either pay the penalty or to request an administrative appeal, said failure shall result in the assessment of an administrative fee as established by resolution which shall be in addition to the penalty.
2. If the owner of a vehicle cited for a parking violation has not responded to the citation within twelve (12) calendar days as provided in subsection (C)(1) of this section, the City shall send a written notice of the citation no more than 60 calendar days from the date of issuance of the citation by regular mail to the last known address of the registered owner of the vehicle. Such notice shall state that if the owner of the vehicle does not respond to the written notice within thirty (30) days from the date of issuance of the notice of the citation by either paying the penalty and possible administrative fee or by requesting in writing an administrative appeal pursuant to these procedures, the owner shall be deemed to have waived the owner's right to an administrative appeal and the determination that a violation was committed shall be considered final. Any person who fails to request an administrative appeal or pay the fine described in this subsection shall be deemed to have refused to pay the fine levied by the citation and shall authorize the City to proceed to collect the fine and all possible administrative fees in any manner available to the City.
3. All payments made by a person regarding a citation issued under this article shall be paid only to the Finance Department or Parking Division.

(D) Administrative appeal of parking citation.

Any person cited for a violation of this article may contest the determination that a violation occurred by submitting to the City a notice of administrative appeal of the parking citation within the time parameters set forth in subsection (C) of this section. The notice of appeal must contain a written statement detailing the

appellant's argument that the citation was issued in error and may include photographs, or any other information the appellant wishes to rely upon. Parking Division Manager ("Administrative Reviewer") shall review the information submitted and, within twenty (20) calendar days of receipt of the notice of appeal, the City shall inform the appellant via regular mail or other communication approved by the appellant, whether the citation is affirmed, modified, or dismissed. If the citing officer's decision is affirmed or modified, the petitioner shall have twelve (12) calendar days from the date of official communication of the Administrative Reviewer's decision to pay the penalty. Failure to pay within the twelve (12) calendar day period shall result in the assessment of an administrative fee as established by resolution which shall be in addition to the penalty, and shall authorize the City to proceed to collect the fine and all administrative fees in any manner available to the City.

(E) Rehearing and judicial review.

1. The City Administrator or a designee shall be responsible for review of an Administrative Reviewer's decision. In no event shall the Administrative Reviewer whose decision is being reviewed be the designee.
2. A request for review of a decision of an Administrative Reviewer shall be submitted to the City Administrator or designee within twelve (12) calendar days of the Administrative Reviewer's determination. This written request may include a request for a hearing. Upon receipt of such request, the City Administrator or designee will schedule a time and place for hearing within twenty-one (21) calendar days of receipt of the request and will provide written notice of the date and time to the appellant. The City Administrator or designee shall have the power to review the facts and the law in order to affirm, reverse, or modify any original decision for error of fact or law.
3. Procedure. The hearing shall afford a reasonable opportunity for appellant(s) to demonstrate by the statements of witnesses and other evidence that the citation was invalid or unjustified. The City Administrator or designee shall establish the necessary rules and regulations regarding the conduct of such hearings.
4. Appearance of officer. The officer or other person authorized by the City who issued the citation shall not be required to appear at the hearing unless the City Administrator or a designee determines that the officer's presence is required. The City Administrator or a designee may grant one postponement if the officer is not available at the time of the hearing.
5. Determination. At the conclusion of the hearing, the City Administrator or a designee shall immediately render a decision, either finding the appellant liable and assessing a fine in the appropriate amount as authorized by the BMCC or declaring the violation unproven.
6. Failure to appear. Failure of the appellant to appear at a hearing when required to appear shall constitute an admission of the parking violation and shall subject the person charged with the violation to the appropriate fines and costs assessed by the City acting through the City Administrator or a designee and

shall authorize the City to proceed to collect the fine and all administrative fees in any manner available to the City.

7. The decision of the City Administrator or a designee shall be the final decision by the City and the appropriate fines and costs assessed by the City acting through the City Administrator or designee shall be due immediately. Any person aggrieved by a decision may file a petition for judicial review in the Billings Municipal Court. An appeal must be brought within thirty (30) calendar days from the date of the decision of the City Administrator or a designee, and shall be confined to review of the record and questions of law.

Section 5. That Section 24-1005 of the BMCC is repealed.

Sec. 24-1005. Reserved.

Section 6. That Section 24-1006 of the BMCC is repealed.

Sec. 24-1006. Reserved.

Section 7. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 8. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 9. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the 12th day of August, 2024.

PASSED, ADOPTED and APPROVED on second reading this 26th day of August, 2024.



CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

Attest:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk