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## ORDINANCE 25-5901

### AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY REVISING ARTICLE 18-1100, OF SAID CODE

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

**Section 1.** That Article 18-1100, of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

#### **Article 18-1100. Graffiti**

##### **Sec. 18-1101. Purpose.**

Graffiti presents a threat to the health, safety and welfare of the community and reduces the value of adjoining properties. Graffiti is deemed a public nuisance in accordance with section 18-301. Standards for graffiti abatement established in this section will help improve the appearance of these structures and preserve neighborhood property values.

(Ord. No. 24-5880, § 1, 4-22-24)

##### **Sec. 18-1102. Definitions.**

For the purposes of this article the following definitions shall apply:

*Graffiti* means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization constitutes a public nuisance as defined in section 18-302.

*Graffiti implement* means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

*Owner* means any entity or entities have a legal or equitable interest in real or personal property including but not limited to the interest of a tenant or lessee.

*Paint stick or graffiti stick* means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8) of an inch in width.

*Perpetrator* means a person who applies graffiti to or on any property located within the city.

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*Person* means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

*Property* means any real or personal property and that which is affixed, incidental or appurtenant to real property including but not limited to any structure, fence, wall, sign or any separate part thereof whether permanent or not.

*Responsible party* means an owner or entity or person acting as an agent for an owner by agreement who has authority over the property or is responsible for the property's maintenance or management. Irrespective of any arrangement to the contrary with any other party, each owner shall always be a responsible party for the purposes of this chapter. There may be more than one responsible party for a particular piece of property.

*Unauthorized* means without the consent of the responsible party.

(Ord. No. 24-5880, § 1, 4-22-24)

### **Sec. 18-1103. Prohibitions.**

It shall be unlawful for any person to apply graffiti to or on any property located within the city.

(Ord. No. 24-5880, § 1, 4-22-24)

### **Sec. 18-1104. Enforcement and penalties—Perpetrator.**

- (a) *Fines and imprisonment.* Any person violating this article by applying graffiti to any property shall be punished as provided in section 1-110.
- (b) *Restitution.* In addition to any punishment specified in this section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court.
- (c) *Community service.* In-lieu of, or as part of, the penalties specified in this section, an offender may be required to perform community service as described by the court based on the following minimum requirements:
  - (1) The offender shall perform at least thirty (30) hours of community service.
  - (2) The entire period of community service shall be performed under the supervision of a community service provider approved by the municipal court.
  - (3) Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the offender, including community service that involves graffiti removal.

(Ord. No. 24-5880, § 1, 4-22-24)

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(Supp. No. 63)

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### **Sec. 18-1105. Rewards and reimbursements for information.**

- (a) The city may offer a reward in an amount to be established by resolution of the city council for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. In the event of damage to public property, the offender or the parents or legal guardian of any unemancipated minor must reimburse the city for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the city in the manner it shall deem appropriate.
- (b) Claims for rewards under this section shall be filed, in writing, with the city clerk. Each claim should:
  - (1) Specifically identify the date, location, and kind of property damaged or destroyed;
  - (2) Identify by name the person who was convicted; and
  - (3) Identify the court and the date upon which the conviction occurred.
- (c) The city administrator shall review each claim for reward submitted pursuant to this chapter and either approve, approve in part, or deny the claim. No claim for a reward shall be approved by the city administrator unless the city investigates and verifies the accuracy of the claim and determines that the requirements of this section have been satisfied. The investigation must determine that the claimant's information was relevant and directly responsible for the arrest and conviction of the suspect.
- (d) The offer of a reward is made to members of the public generally. However, no law enforcement officer, municipal officer, employee of the city, or person(s) apprehended shall be eligible for such a reward.
- (e) Any person committing graffiti vandalism shall be civilly liable for any reward paid pursuant to this section. If said person is an unemancipated minor, then the parent or lawful guardian of said minor shall be civilly liable for any reward paid pursuant to this section.

(Ord. No. 24-5880, § 1, 4-22-24)

### **Sec. 18-1106. Graffiti as a public nuisance.**

- (a) The existence of graffiti on private property in violation of this article is expressly declared to be a public nuisance and, therefore, is subject to the abatement provisions specified in section 18-305.
- (b) It is the duty of both the owner of the private property to which the graffiti has been applied and any responsible party to at all times keep the private property clear of graffiti.

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(c) Failure to remove graffiti by the private property owner or any responsible party shall be punished as a municipal infraction and shall be subject to civil penalties as specified in section 18-1304.

(Ord. No. 24-5880, § 1, 4-22-24)

**Secs. 18-1107—18-1113. Reserved.**

**Sec. 18-1114. Ease of removal provisions.**

(a) *Common utility colors and paint type.* Any gas, electric, telephone, water, sewer, cable, telephone and other utility operating in the city shall paint its above-surface metal fixtures with a uniform paint type and color, or wrap, that meets with the approval of the city administrator or the city administrator's designee.

(b) *Conditional encroachment permits.* All encroachment permits issued by the city shall, among such other things, be conditioned on:

- (1) The permittee's application of an anti-graffiti material to the encroaching object of a type and nature that is acceptable to the city administrator, or the city administrator's designee;
- (2) The permittee's immediate removal of any graffiti;
- (3) The city's right to remove graffiti or to paint the encroaching object; or
- (4) The permittee's providing the city with sufficient matching paint and/or anti-graffiti material on demand for use in the painting of the encroaching object containing graffiti.

(Ord. No. 24-5880, § 1, 4-22-24)

**Sec. 18-1115. Reserved.**

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**Sec. 18-1116. Anti-graffiti fund.**

The city council may at its discretion create the city anti-graffiti fund. Costs recovered for graffiti removal and penalties assessed in municipal court against violators of this article shall be placed in the fund, along with any monetary donations received from persons wishing to contribute to the fund. The council, or its designee, shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of labor and materials for graffiti removal, the payment, at the discretion of the city council, or its designee, of rewards for information leading to the conviction of violation of the article, the costs of administering the article, and such other public purposes pertaining to graffiti as may be approved by the council by resolution.

(Ord. No. 24-5880, § 1, 4-22-24)

**Section 2. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 3. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 4. 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 27<sup>th</sup> day of January 2025.

PASSED, ADOPTED and APPROVED on second reading this 10<sup>th</sup> day of February 2025.



Attest:

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

CITY OF BILLINGS

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