

ORDINANCE NO. 06-5385

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 24-1007, 24-1008, 24-1009, AND 24-1011; PROVIDING FOR VEHICLE IMMOBILIZATION WHEN OUTSTANDING PARKING FINES EXCEED \$50; UPDATING THE PROCEDURE; INCREASING CERTAIN FINES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That Section 24-1007 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 24-1007. Authorization to tow or use vehicle immobilizer.

In addition to, or as an alternative to towing, the city administrator or designee is authorized to use a vehicle immobilizer ("boot") to immobilize any vehicle that is parked in a city parking space or along any right of way within the city limits and that has ~~one (1) or more unpaid handicapped parking tickets or ten (10) or more other unpaid parking tickets~~ any number of unpaid parking tickets totaling fifty dollars (\$50) or more, ~~provided that the city administrator has sent the registered owner of the vehicle a final written notice for one (1) or more of the unpaid parking tickets as required by section 24-1005.~~

Section 2. That Section 24-1008 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 24-1008. Procedure for vehicle immobilization.

If the city administrator or designee chooses to immobilize a vehicle with a boot as allowed by section 24-1007, then the city administrator or designee shall conspicuously affix to such vehicle a notice in writing notifying the owner, driver or person in charge of such vehicle that such vehicle has unpaid parking tickets totaling fifty dollars (\$50) or more and will be immobilized in forty-eight (48) hours. After forty-eight (48) hours the city administrator or designee shall conspicuously affix to such vehicle a notice in writing notifying the owner, driver or person in charge of such vehicle: that such vehicle has been immobilized by the city for violation of one or more provisions of this chapter; that release from such immobilization may be obtained at a designated place; that unless arrangements are made for the release of such vehicle within forty-eight (48) hours the vehicle will be impounded and towed as provided in section 24-1009; and that removing or attempting to remove the immobilization device from the vehicle, or removing or attempting to move the vehicle from the place at which the immobilization device was affixed to the vehicle before a release is obtained is unlawful.

It shall be a misdemeanor punishable as provided in section 1-110 for any person to remove or attempt to remove any immobilization device or to move any immobilized vehicle from the place at which the immobilization device was affixed to the vehicle before a release is obtained from the city administrator or designee. An immobilized vehicle shall not be released by the city until a fee of ~~fifty dollars (\$50.00)~~one-hundred dollars (\$100.00) for the immobilization is paid, together with payment of all outstanding parking fines, or posting of bond as allowed by subsection 24-1009.5(b).

If the vehicle has remained immobilized for a period of forty-eight (48) hours and a release has not been obtained, then the city administrator or designee shall have the vehicle impounded and towed as provided in section 24-1009.

Section 3. That Section 24-1009 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 24-1009. Removal of violation vehicle.

- (a) The city is authorized to remove a vehicle or tow a vehicle from a street, highway or city parking space, as defined in section 24-451, to the nearest garage or other place of safety or to a garage designated or maintained by the police department under the circumstances hereinafter enumerated:
 - (1) When any vehicle is left unattended upon any bridge-viaduct or causeway or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;
 - (2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is unable by reason of physical injury or incapacitated to such an extent as to be unable to provide for its custody or removal;
 - (3) Whenever any vehicle is found by a police officer parked or left standing in the streets or alleys of the city in violation of the provisions of this chapter.
 - (4) When a vehicle is parked in any city parking space ~~and the vehicle has ten (10) or more unpaid parking tickets and is in violation of Sec. 24-1007~~, and the city administrator or his designee has ~~sent~~ notified the registered owner, driver or person in charge of such vehicle of the vehicle a final written notice for one or more of the unpaid parking tickets ~~as required by section such violation, pursuant to Sec. 24-10058.~~
- (b) Whenever an officer removes a vehicle from a street or city parking space as authorized in this section and the officer knows or is able to ascertain from the registration records on the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons thereof and of the place to which such vehicle has been removed. If any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage. Further, the party towing the vehicle shall immediately notify the police department dispatcher that a vehicle has been towed from a specific location and give the dispatcher a detailed description of the vehicle and the location to which it is being towed.
- (c) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and if the vehicle is not returned to the owner within a period of three (3) days, then the office shall immediately send or cause to be sent written reports of such removal by mail to the state department whose

duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal and name of the garage or place where the vehicle is stored.

(d) Any officer is authorized to take possession of any motor vehicle owned by any person that has violated, as to the vehicle, any of the provisions of this chapter, and has authority to remove such vehicle from the streets, alleys or other public places where the violation occurs, and to store and keep possession thereof until the owner of such vehicle appears and claims the same. The cost of towing or removing such vehicle and costs of storing the same shall be chargeable against the vehicle and shall be paid by the owner of the vehicle before the same shall be released. The vehicle may be stored in a public or a private place; if in a public place the storage charges shall be the amount charged for such public storage; if stored on city property, the storage shall be as prescribed from time to time by council resolution during the time the vehicle is in the possession of the city. The owner of a vehicle impounded and towed due to unpaid parking tickets must secure the release of the vehicle as required by section 24-1009.5.

(e) The taking of possession of a vehicle for violation of traffic ordinance shall not prohibit the filing of a complaint for the violation of traffic ordinances as hereinabove provided.

Section 4. That Section 24-1011 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 24-1011. Penalty for violations.

(a) Upon conviction any person who violates or permits or allows anyone to violate the following listed sections shall pay the fine specified.

Section(s)	Description	Fine
24-443	Handicap	\$100
24-455 24-456(a)(1) 24-462	Meter Expired	30 <u>180</u> day escalation courtesy/ 5/10/20
24-412	Posted Signs (Time Zones)	30 <u>180</u> day escalation courtesy/ 5/10/20
24-430	Loading Zone	25
24-401	No Parking	25
24-402	Alley	25
24-429	No Delivery Permit	25
24-403	Yellow Zone	25
24-472	Fire Hydrant	50 <u>100</u>

24-101	Sidewalk	25
24-413	Cab Zone	25
24-413	Bus Zone	25
24-101	Parked Against Traffic	15
24-456(a)(2)	Meter Plugging	40 <u>25</u>
24-454	Taking up 2 Spaces	10
24-463	Garage	10
24-471	Fire Lane	50 <u>100</u>
24-1008	Boot Fee	50- <u>100</u>

Posted signs include 10-minute zones and 2-hour zones.

(b) Any person who violates or permits or allows anyone to violate sections 24-412, 24-455, 24-456(a) (1), or 24-462 is guilty of a misdemeanor and upon conviction shall be fined as follows:

First citation . . . No charge

Second citation . . . \$5.00

Third citation . . . 10.00

Fourth and subsequent citations . . . 20.00

If fewer than ~~thirty (30)~~ 180 days have elapsed between the issuance of the first citation and the issuance of the present citation, the fine will escalate from the previous citation as provided above. When ~~thirty (30)~~ 180 or more days have elapsed from the issuance of the first citation, the fine for the present citation shall become the first citation and the above escalation provisions shall apply.

(c) Unless otherwise provided, it is a misdemeanor for any person to violate any of the provisions of this chapter.

(d) Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punished as provided in section 1-110.

(e) Upon conviction, the court costs or any part thereof may be assessed against the defendant in the discretion of the court.

Section 5. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 6. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. 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 this 28th day of August, 2006.

PASSED, ADOPTED and APPROVED on second reading this 11th day of September, 2006.

CITY OF BILLINGS

By _____
Ron Tussing, Mayor

ATTEST:

By _____
Marita Herold, CMC/AAE City Clerk