

RESOLUTION 23-11158

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF ABATEMENT.

WHEREAS, Billings, Montana City Code, Section 18-301, et seq. sets forth the procedures to be followed (a) to designate property within the City of Billings as a nuisance, and (b) to abate such a nuisance when ordered to do so by the Municipal Court.

WHEREAS, Section 18-305 provides that the property owner will be sent an abatement expense report for the subject property and will be given notice that any assessment that is not paid shall become a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes. The owners of the property described on Exhibit A have been sent an assessment notice for abatement expenses incurred pursuant to Section 18-301, et seq., but the property owner has not reimbursed the City for its expenses set forth in the report or any part thereof. Further, City policy dictates that the City Clerk shall prepare and present a Resolution containing a list of the properties to be assessed, the recorded owners, and the amount of the cost for abatement, not to exceed the statutory amount for a Municipal Court judgement as in MCA 3-11-103, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of abatement, there is hereby levied and assessed a special tax upon the owners and the lots or parcels described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes.

3. DISPOSITION OF COLLECTIONS. Pursuant to Section 18-305(6)k. BMCC, monies collected from taxes shall be paid into a special abatement fund established to account for costs, collections, and transactions necessary to the efficient operation of the Nuisance Abatement program. Assessment funds collected will be returned to the designated abatement account for future use on other involuntary property abatements or for transfer back to the city general fund.

4. NOTICE OF HEARING. On Monday, September 11, 2023, at 5:30 p.m., or as soon thereafter as the matter could be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council heard objections to the adoption of this resolution. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News, as provided in Section 7-1-4127, MCA.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 11th day of September, 2023.



CITY OF BILLINGS:

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

ATTEST:

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

Exhibit A

Owner Name	Address	Tax Code	Assessed Amount
Craven, Loretta D	245 Birchwood Drive	A04411	\$5,402.17
Logan, George R & Jo Ann Living Trust	1211 Miles Avenue	A11498	\$1,292.96
Greyn, Daryl D	615 S 34 th Street	A01615	\$1,078.71
Gutierrez, Andrew	910 Lynch	C01139	\$1,199.07
Morehouse, James	528 Judith	A03231	\$3,502.41
Parker, Robert (Brasda, Dezeray)	202 Jackson	A09301	\$455.60
Secretary of Veteran Affairs (Comeslast Brandon)	213 S 31st St	A01321	\$2,012.01
Tate, Jamie	4112 Buchanan Avenue	A06960	\$523.63

City Council Regular

Date: 09/11/2023
 Title: Public Hearing & Resolution for Nuisance Property Abatement Assessments
 Presented by: Andy Zoeller, Finance Director
 Department: Finance
 Presentation: Yes
 Legal Review: No
 Project Number: N/A

APP 11-0

RES 23-1158 SEP 11 2023 JK CITY CLERK
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RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution authorizing staff to alter list if the assessments are paid prior to submitting to the County Treasurer.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

A nuisance property abatement assessment resolution has been completed, and the assessment is ready to be placed on the taxes for the following properties.

(A04411) For the property of 245 Birchwood a case was open for open storage on 11/2/2022. Multiple notices were sent out and in person communication was made several times. The property owners were unable to clean the property due to their age and health concerns. After getting a signed voluntary abatement form from both the property owner and their daughter who has power of attorney the process of cleaning the property began. The abatement at the residence took 2 days 4/25/2023 and 5/9/2023. The end bill is \$5,402.17, and the property owner is unable to pay this at this time and wishes for the amount to be assessed to the taxes for the property.

(A11498) For the property of 1211 Miles the case was open up on 7/20/22 for both open storage and junk vehicles at the residence. Two notices were sent to the residence and no progress had been made. Face to face contact was made with the property owner and again no significant change to the property was made. Two citations were issued to the property owner before the property owner was finally cited into court on 12/07/2022. The property owner did not appear to the court date on 2/15/2023 and when the property was inspected on that day more items had been added to the open storage at the residence. The property was abated on 5/2/2023 with a bill of \$1,292.96 that has not been paid.

(A01615) For the property located at 615 S 34th Street, Billings, MT a case for open storage, and Parking Inoperable/Junk vehicle in Neighborhood Residential Districts was opened on 10/3/22 and first notice sent. A reinspection was done on 10/17/22, there was no change to the property. On 10/17/22 2nd notice was sent with updated pictures and explanation of what needed to be corrected. Several drive by inspections, more notices were sent and attempts were made to contact Daryl Green in person and over the phone. On 12/28/22 myself and two (2) other Code Officers went to the residence and were able to visit with the property owner Daryl Green. We explained to him all that needed to be done. He was offered a voluntary abatement order to sign. He refused to sign so I issued a notice to appear January 18, 2023, at 10:30. On 1/18/23 Daryl Green was given extended time to work on his property by the Judge. The Order Setting Hearing was not set for February 15, 2023 @ 1030. Still with no compliance at the property, I presented my case to Municipal Court of unchanged status/noncompliance of 615 S. 34th Street, Judge Kolar signed the court ordered abatement. On 5/3/23 the abatement was completed by the Code Enforcement. The amount of \$1,078.71 is still unpaid.

(C01139) For the property located at 910 Lynch Drive in Billings, MT. A case for open storage and junk vehicles. The case was opened on 04/05/2022 with the first notice being sent out. On 05/16/2022 a final notice was sent out to gain compliance before a citation would be issued. On 06/01/2022 a citation was sent out via certified mail to Andrew Gutierrez for court on 07/06/2022. Andrew showed up for open court and was pushed back from July until 8/30/2022. Several inspections were done, and phone calls made to Andrew but still no progress after getting case proven in court and having abatement order. Due to inclement weather during the winter, abatement was held off until the springtime. Abatement was done on 5/24/2023, and all open storage cleaned up. The amount of \$1,199.07 is still unpaid.

(A03231) For the property located at 528 Judith Lane in Billings, MT. A case for open storage and junk vehicles. The case was opened on 06/14/2022 with the first notice being sent out. On 06/27/2022 a final notice was sent out to gain compliance before a citation would be issued. On 11/16/2022 a citation was issued to James Morehouse for a court date in 12/2022. After the initial appearance, the court pushed this back due to weather and the ability for James to get his property into compliance. Case would be extended until 03/15/2023. After the amount of time given, the case was proven again in court and abatement order was given. Case had to wait 30 days to get into compliance before executed abatement. After careful

planning with this abatement, Abatement was completed in two days on 06/27 and 06/29/23 to remove junk vehicles and open storage. The amount of \$3,502.41 is still unpaid.

(A09301) For the property located at 202 Jackson Street in Billings, MT. A case for Open Storage, Junk Vehicles and Obstruction of Right of Way, was opened on 5/26/22 with the first inspection being done and 1st notice being sent to the address. On 6/15/22 and 7/12/22 Re inspections were done to see if any clean up was made. The property was still in violation. Several follow up notices, phone calls and face to face contact was made with the resident, Dezeray Brasda, still property in violation. On 9/20/22 I did the final inspection of the property, took updated pictures and served Dezeray Brasda with a Notice to Appear for October 26th, 2022. On October 26th, Dezeray Brasda failed to appear in Municipal Court. I presented my case for abatement at 202 Jackson st, Judge Kolar signed the Court ordered 1 year abatement. On 5/16/2023 the open storage, junk vehicle and obstruction of a right of way abatement was completed. The amount of \$455.60 is still unpaid.

(A01321) For the property located at 213 S. 31st Street in Billings, MT. A case for open storage was opened on 11/29/22 with the first inspection being done and the 1st notice being sent to the address. On 12/19/22 I was notified by the Billings Police Department that Brandon Comeslast, the property owner of 213 S. 31st Street had been arrested and being held at YCDF. I did go to YCDF and hand served Brandon Comeslast a Notice to Appear for 1/18/23 @ 1030 am. On 1/03/23 Brandon Comeslast bonded out of jail. 1/11/23 I drove by the property to see if any cleanup had been done. The property was still in violation of open storage, I took updated pictures. On 1/18/23 Brandon Comeslast failed to appear in Municipal Court. I presented my case for abatement at 213 S 31st Street, Judge Kolar signed the Court ordered 1 year abatement. On 4/11/23 the open storage abatement was completed. The amount of \$839.06 is still unpaid.

On 4/4/23 another complaint came in about the open storage again in the backyard area. I drove by and took pictures of the violations. With the one (1) abatement order I scheduled the cleanup. On 4/11/23 the 2nd abatement cleanup was done on this property. The amount of \$119.23 is still unpaid.

On 5/4/23 the property again in non-compliance with large amount of trash, debris and furniture thrown into the back yard. On 5/16/23 another abatement was completed on the property. The amount of \$263.05 is still unpaid.

*On 6/14/23 enter the property due to non-compliance. A fire occurred on the property due to unauthorized occupants entering the property and home. Property owner Brandon Comeslast signed a Voluntary Abatement Order to have the property boarded and secured from illegal entry. Faithful Restoration was hired and completed the job. Code Enforcement also went onto the property and cleaned up open storage collected on the property. Cost for the 3rd abatement is \$790.67. Total amount for all three unpaid abatements is \$2,012.01.

(A06960) For the property located at 4112 Buchanan Ave in Billings, MT. A case for open storage. The case was opened on 4/21/21. On 8/3/21 and 1/24/22 other notices were sent out with no compliance at the property. On 9/22/22 was the initial appearance in Municipal Court. James Tate, occupant of the resident was given sixty (60) days to get the property into compliance. Several inspections were done, and phone calls made to James Tate at 4112 Buchanan, with no progress of clean up being done. On 12/21/22, I presented photos in Municipal Court of unchanged status of 4112 Buchanan, Judge Hughes (Pro Tem) signed the court ordered abatement. On 4/12/2023 and 4/17/2023 abatements were done at 4112 Buchanan to get the property into compliance. The amount of \$523.63 is still unpaid.

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve, in which case the property owners will not be assessed, and the General Fund will be responsible for paying for the abatement.

FISCAL EFFECTS

The assessments total \$15,466.56 and will reimburse the General Fund.

Attachments

Resolution Nuisance Abatement