

RESOLUTION NO. 4123

A RESOLUTION PROVIDING FOR PROCEDURES TO MANAGE AND MONITOR LEASES OF PROPERTY OWNED BY THE CITY OF MILES CITY

WHEREAS, the City of Miles City owns various lands, facilities and improvements;

AND WHEREAS, the City desires to lease these lands, facilities and improvements for the benefit of the general community, to provide for appropriate areas for the location of industrial businesses, recreational areas, and similar entities, to manage special use properties, and to generate appropriate public revenues therefrom;

AND WHEREAS, the City Council of the City of Miles City desires to establish procedures to monitor and manage such various leases;

AND WHEREAS, the City of Miles City desires to establish a fair and consistent policy with which to administer the leasing of such lands, facilities and improvements;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Miles City, Montana as follows:

1. **Lease Administrator.** The Mayor shall designate a lease administrator to administer the leasing of City owned property, including, but not limited to, the Industrial Site tracts. The lease administrator shall have the following responsibilities:
 - a. Provide and update an official map of lands available for lease, in the format set forth in Attachment A
 - b. develop and maintain a record of each leased property containing, at a minimum:
 - (1) an appropriately signed and acknowledged standard form of lease together with a copy of the resolution of the City Council approving such lease;
 - (2) a legal description of the leased parcel;
 - (3) a map of the leased parcel;
 - (4) proof of insurance in compliance with the lease;
 - (5) a listing of City services provided to the property;
 - (6) a brief description of the use for which the property was leased;
 - (7) the full name, address and telephone number of the current lessee;
 - (8) any approved assignments of the lease together with a copy of the resolution of the City Council approving such assignment;
 - (9) all correspondence associated with the parcel including all notices of lease violations;
 - (10) all inspection reports as to compliance with lease terms by lessee;
 - (11) an historical record of lease payments upon the parcel;
 - c. serves as the single point of contact for current leaseholders and for lessees desiring to lease City property;
 - (1) City Clerk's office shall be responsible for billing notices and collection
 - d. develops and present to the City Council an annual lease status report and recommendations as to changes in leases or lease policies;
 - e. conduct on-site inspections of leased tracts at least annually to verify compliance

with lease terms, use for stated lease purpose, occupancy and use by named lessee or approved assignee, condition of leased property, proof of complying insurance, and any environmental degradation; and

f. such other and further duties and responsibilities as the Mayor or Council may assign from time to time.

2. **Lease Standards.** Leases granted by the City of Miles City shall comply with the following general standards, unless expressly authorized by action of the City Council:

a. The term of the lease shall be for a period between one to five years. Renewable leases shall be permitted. Leases with terms greater than five years or with renewal options beyond five years shall be set as provided in Section 2(c) and 2(d) below.

b. The termination dates for leases shall be set for June 30, to coincide with the City's fiscal year. The first year of a lease shall require prorated rentals through June 30 of the subsequent year, due upon commencement of the lease, and subsequent rentals shall be for annual periods from July 1 to June 30, payable in advance of July 1 of each year of the lease term. Proof of Insurance shall be provided with payment.

c. The minimum base rate for Industrial Site leases shall be established from time to time by resolution of the City Council. Industrial Site leases entered into shall utilize the minimal rental rate as established by City Council.

Rates above these minimal rates may be charged based on the cost of city services or city owned improvements provided as part of the lease.

d. Rates for leases of City owned property outside of the Industrial Site will be evaluated on a case by case basis.

e. Lease may provide special considerations for lessee investment in tract cleanup, land surface improvements, or improvements to city service systems. All agricultural leases shall include the following animal husbandry clause: "TENANT shall maintain the property with good husbandry and in good farmer-like manner consistent with the prevailing standards for Custer County, Montana. TENANT will abide by all local, state and federal rules, regulations and laws respecting the use of real property, pesticides, soil erosion, hazardous materials, and chemicals and farming practices. TENANT will take all necessary steps to ensure proper weed control for all property subject to this lease. Fences and other improvements will be maintained in good condition.

f. Governmental entities, or nonprofit corporations that are determined to be of special benefit to the greater Miles City community, may receive more favorable lease terms or lease rental rates. Any nonprofit entity seeking such benefits shall file with the Lease Administrator a copy of its IRS tax exempt determination and any determination by the IRS that such entity qualifies as a charity.

g. Leases shall prohibit assignment and subleasing unless prior written approval is obtained from the City Council.

- h. If a Lessee desires to eliminate or modify these standards and the Council is agreeable, then the rental provisions may be revised upward from the minimal base rates, or other provisions for rental adjustment may be included in the lease to assure that the City is receiving fair market value for the leasehold.
 - i. Lessees who own substantial permanent physical improvements which have been constructed upon the leasehold with City permission, may be granted a preferential right to renew their lease, at a rate to be determined by the City, which shall be not less than the minimum rental rate established by the City Council, as adjusted from time to time.
3. **Minimum Documentation for New Leases or requests for modification.** New applications to lease City property, or requests to modify improvements on existing leases, or requests to change the use of existing leases must submit documentation in support of the proposal.

All requests to modify improvements on existing leases must comply with applicable state and federal regulations, and local zoning and building codes.

All requests for change of use for existing leases must have Council approval.

Applications to lease City property or modify existing improvements must include, at minimum, the following documentation:

- a. Legal description of the property;
 - b. Brief description of the intended use or changes in existing use to the property;
 - c. Plot plan showing multiple uses, if any;
 - d. Scaled site plan showing:
 - (1) all existing and proposed improvements, both permanent and temporary;
 - (2) engineering plans for new improvements or modifications to existing improvements;
 - (3) existing and proposed utilities; and
 - e. Description of any extraordinary requirements for physical access, security, water, sanitary sewer, waste storage or disposal or other public utility or environmental need;
 - f. Listing of federal, state, and local permits required for construction or operation;
 - g. Proposals to amend boundaries of existing parcels must be surveyed at the applicant's expense;
 - h. Site preparation for new leases will be the responsibility of the applicant;
4. **Variation from Standards.** The above standards are intended as general guidelines for the Lease Administrator and potential lessees. Nothing herein shall preclude the approval by the City Council of a lease that varies from the above standards should the Council determine that such lease is in the best interests of the City.
5. **Effective Date.** This Resolution supersedes #4053 and shall become effective

January 10, 2018.

SAID RESOLUTION FINALLY PASSED AND ADOPTED AS AMENDED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 9TH DAY OF JANUARY, 2018.



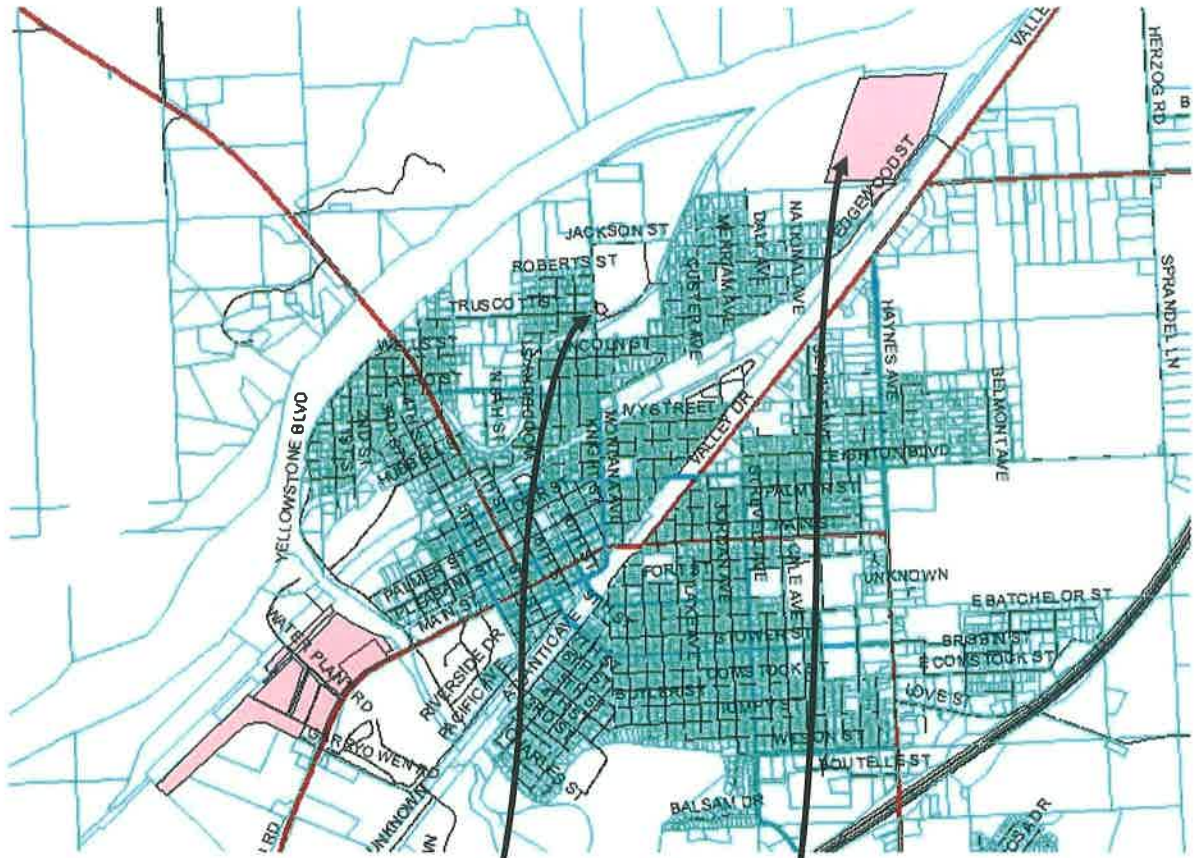
Mayor

Attest: 

City Clerk

Attachment "A"

City Owned Lease Properties



Bender Park



Sewer Lagoons



Owner Parcels



Lease Parcels