

Return To:  
City of Miles City, Montana  
P.O. Box 910  
Miles City, MT 59301

**169780 Fee: \$28.00**

Custer County Recorded 2/21/2018 At 9:30 AM  
Linda Corbett, Clk & Rcdr By Linda Wagner  
Return to: City of Miles City P.O. Box 910  
MILES CITY MT 59301

**RESOLUTION NO. 4126**

**A RESOLUTION GRANTING A REVOCABLE LICENSE TO BERT BOUGHTON AND BYRON BOUGHTON AND BERT DEE BOUGHTON FOR AN ENCROACHMENT UPON CITY OF MILES CITY PROPERTY, FOR THE BENEFIT OF TRACT 4A OF THE INDUSTRIAL SITES, WEST OF MILES CITY.**

*WHEREAS*, BERT BOUGHTON and BRYON BOUGHTON and BERT DEE BOUGHTON have made application for an encroachment upon certain real property owned by the City of Miles City, which is depicted as a platted street but not fully developed, upon which a pole barn owned by the applicants is located, said pole barn being used in connection with other buildings located on applicants' adjacent property, described as:

Tract 4A of the Industrial Sites located west of the City of Miles City, Custer County, Montana as depicted in Certificate of Survey No. 91209, in Envelope 284-B, on file in the office of the Clerk and Recorder of Custer County, Montana.

*AND WHEREAS*, the City Council finds that the granting of a revocable license for such encroachment, pursuant to certain terms and conditions, is advisable.


**NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:**

It does hereby authorize and grant to BERT BOUGHTON and BYRON BOUGHTON and BERT DEE BOUGHTON a revocable license to maintain a certain pole barn which is approximately 54 feet by 32 feet in size, with said license granting the use of a parcel of land

approximately 75 feet by 35 feet, as set forth in the attached Exhibit "A", and subject to the following terms and conditions:

1. Licensee shall pay to the City of Miles City the sum of four hundred fifty and 00/100 dollars (\$450) per year, due and payable on the 1st day of July of each year. There shall be no proration for the first year's payment.
2. In the event the pole barn located upon this license is destroyed or removed, this license shall terminate, and licensee shall, at licensee's expense, restore the location to compacted, level grade within ninety (90) days.
3. This license shall terminate and licensee shall, at licensee's expense, restore the location to compacted, level grade, upon ninety (90) days advanced written notice to licensee by the City of Miles City.
4. Licensee agrees, by accepting the terms of the license granted herein, that licensee shall indemnify, defend and hold the City of Miles City harmless from any and all claims arising out of licensee's use or maintenance of the licensed area.
5. This license shall be recorded with the Clerk and Recorder for Custer County, Montana, and shall run with the above described real property, subject to the terms, conditions and right to terminate provided herein.

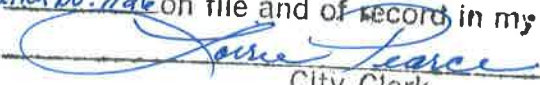
**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY  
CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY,  
MONTANA, THIS 13<sup>th</sup> DAY OF February, 2018.**

  
\_\_\_\_\_  
John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

I, the undersigned being the duly appointed  
and acting City Clerk of the City of Miles City,  
Montana, hereby certify that the above is a  
full, true and correct copy of the original  
*Resolution No. 7126* on file and of record in my office  
  
\_\_\_\_\_  
City Clerk

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DLU: 2/6/18

**EXHIBIT A - LOCATION**



\*Outline is approximation of license area

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**City Council Staff Report  
Revocable License for Boughton Pole Barn  
Meeting Date: February 13, 2018**

**HISTORY:**

Bert Boughton purchased the property identified on Plat No. 284B as Tract 4A from Francisco Rail Services Co. in approximately 1992. Mr. Boughton currently maintains a home and several outbuildings on the property. It was recently discovered that one outbuilding actually lies on City property. See Exhibit A. The building is a 54 ft. x 32 ft. pole barn that is located in the Logan Dr. right-of-way. Mr. Boughton approached staff to determine a way to solve the encroachment issue to the satisfaction of both parties.

**POLICY**

In this case, a lease is not appropriate as no existing survey shows a boundary that includes the barn location. Staff has determined that a revocable license would be the more appropriate vehicle for this issue. A revocable license may be revoked at any time by the licensor whereas a lease grants the lessee exclusive possession of the premises.

**PROPOSAL**

Bert and Byron Boughton and Bert Dee Boughton are agreeable to a revocable license to include the general area of the pole barn, an approximate area of 75 feet by 35 feet. Mr. Boughton also agrees not to expand the current use or footprint of the building. The proposed cost of the license fee is \$450/yr. The license fee will be due every year on or before July 1, 2018.

**PROCEDURE:**

Council may approve Resolution 4126 and the above proposal or make changes as appropriate.

**RECOMMENDATION:**

Through review of the of the applicable regulations and considering the circumstances, staff recommends that the City Council adopt this staff report as findings of fact and recommend approval of granting Mr. Boughton a revocable license as described above.

*K Dawn Colton*