

1977
CHARTER OF ANACONDA - DEER LODGE COUNTY

PREAMBLE

We, the people of the City of Anaconda and the County of Deer Lodge, State of Montana, in accordance with Article XI, Section 5, of the Constitution of the State of Montana and for the purpose of achieving one community, do adopt this Charter of Anaconda-Deer Lodge County, State of Montana.

ARTICLE I

General Provisions

Section 1. Name.

The name of this local government unit shall be Anaconda-Deer Lodge County.

Section 2. Status.

Anaconda-Deer Lodge County shall have the status of an incorporated municipality and a county.

Section 3. Boundaries.

The boundaries of Anaconda-Deer Lodge County shall be the same as those of Deer Lodge County as described in the laws of Montana.

Section 4. Charter Supremacy.

As provided by Article XI, Section 5, of the Constitution of the State of Montana, provisions herein establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

Section 5. Oath of Office.

Before entering upon the duties of office, all Anaconda-Deer Lodge County elected officials shall take and subscribe to the oath of office as follows: "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, the Constitution of the State of Montana, this Charter, and that I will discharge the duties of my office with fidelity (so help me God)."

Article II

Powers

Section 1. Declaration of Powers.

1. Anaconda-Deer Lodge County shall have all powers not prohibited by the Constitution of the United States of America, the Constitution of the State of Montana, and laws of the State of Montana, or this Charter.

2. Enumeration of rights, powers, or duties in this Charter shall not be considered exclusive or restrictive.

Section 2. Interpretation of Powers.

The powers and authority of Anaconda-Deer Lodge County shall be liberally interpreted. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.

Section 3. Exercise of Powers.

All powers of Anaconda-Deer Lodge County belong to the people of Anaconda-Deer Lodge County. The powers shall be exercised by their elected representatives on the Commission.

Section 4. Existing Obligations.

Any bond, debt, contract, obligation, or cause of action already accrued or established by the City of Anaconda or the County of Deer Lodge governments shall be unaffected by this Charter.

Article III

Commission

Section 1. Powers.

The Anaconda-Deer Lodge County Commission shall be the legislative and policy-making body of Anaconda-Deer Lodge County. Except as otherwise provided by this Charter, the Commission shall exercise all powers of Anaconda-Deer Lodge County which include, but are not limited to, the power:

- a. to adopt ordinances and resolutions.
- b. to appoint and remove the Manager by a majority vote of the entire Commission.
- c. to raise, borrow, and appropriate money.
- d. to provide for an annual audit and a written report of that audit.
- e. to approve and adopt an annual budget.
- f. to adopt and maintain an Administrative Code and a Personnel System.
- g. to review and investigate all fiscal and management operations of the local government.
- h. to establish and prescribe functions of all administrative departments and agencies.
- i. to create, transfer, reorganize, adjust, abolish, or absorb the boundaries of all existing boards, bureaus, commissions, agencies, special districts, and political subdivisions of the consolidated governments.
- j. to appoint all members of boards and commissions.
- k. to appoint legal counsel to advise the Commission as necessary.

Section 2. Restrictions on the Powers and Duties of the Commission.

1. The Commission may impose no new form of taxation, including but not limited to sales taxes and income taxes, without approval by the people in a referendum to be held only at a county general election.

2. Neither the Commission nor any of its members may dictate the appointment or removal of any employee whom the Manager or any of his subordinates are empowered to appoint.

3. Except for the purpose of inquiry or investigation under this Charter or the code of local government, the Commission or its members shall deal with the local government employees who are subject to the di-

rection and supervision of the Manager, solely through the Manager, and neither the Commission or its members may give orders to any such employee, neither publicly nor privately.

Section 3. Composition, Terms, and Election.

1. The Commission shall be composed of five (5) members and each Commissioner shall have a designated Commission district. Commission districts shall be of as nearly equal population as possible and shall be reapportioned by the Commission within six (6) months after each official United States census.

2. Candidates for each Commission district seat shall reside in that Commission district.

3. Each Commission district nominee shall be selected in the primary election by the voters in that district.

4. Commissioners shall be elected in the general election for a term of four (4) years by the voters of the county at large. At least two (2) Commissioners shall be elected every two (2) years.

5. The office of Commissioner shall be part-time.

6. Elections for the Commission shall be non-partisan.

Section 4. Qualifications, Removal and Vacancy

1. All qualified electors of Anaconda-Deer Lodge County are eligible for election of the Commission.

2. No Commission member shall hold any other elective public office or be employed by Anaconda-Deer Lodge County.

3. The office of Commissioner shall become vacant upon the member's:

a. death.

b. resignation.

c. loss of eligibility for election.

d. violation of any express prohibition of this Charter.

e. conviction of a felony by a court of competent jurisdiction.

4. In the event of a vacancy, the Commission shall, by majority vote of the remaining members, appoint a member of the advisory council of that district to fill the vacancy until the next regular Commission election at which time the remainder of the term of office shall be completed as provided by law.

5. The Commission shall be the judge of the election and qualifications of its members and of the grounds for removal from office. A member charged with conduct constituting grounds for loss of office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

Section 5. Compensation.

1. The Commission shall set the annual salary of its members by ordinance. The ordinance shall be adopted at least six (6) months prior to the next Commission election and shall not become effective until the date for qualification set by state law, following the next Commission election.

2. In addition to salary, Commission members shall receive actual and necessary expenses incurred in the performance of their duties of office, as approved by the Commission.

Section 6. Organization and Procedures.

1. There shall be a chairman of the Commission elected by the Commission. The chairman shall be the official representative of Anaconda-Deer Lodge County and shall have those powers and duties delegated by the Commission.

2. The Commission shall adopt by ordinance a set of written rules to govern its organization and procedures consistent with state law.

3. The Commission shall provide for the keeping of a journal of its proceedings.

4. All meetings shall be open to the public except in such circumstances as are prescribed by state law.

5. All documents and records of the Commission shall be public records and shall be made available for examining and copying.

6. A majority vote of the entire Commission shall be required for all official actions of the Commission. A minimum of four (4) Commission members must be present when official actions are taken by the Commission.

Article IV

Manager

Section 1. Qualifications, Appointment, Removal, and Vacancy.

1. The Anaconda-Deer Lodge County Manager shall be appointed by a majority vote of the entire Commission for an indefinite term on the basis of merit only. Merit shall be interpreted to include education and experience.
2. After appointment, the Manager shall reside in Anaconda-Deer Lodge County.
3. The Commission may, by a majority vote of the entire Commission, remove the Manager from office at any regularly scheduled Commission meeting.
4. By letter filed with the Commission, the Manager shall designate an acting Manager to perform the duties of the Manager during his temporary absence or disability. During such absence or disability, the Commission may revoke such designation at any time and appoint another officer of the local government to serve until the Manager shall return or his disability shall cease.

Section 2. Compensation.

The Commission shall set the salary and other conditions of employment of the Manager.

Section 3. Duties.

1. The Anaconda-Deer Lodge County Manager shall be the chief administrative officer of the local government and shall be responsible for all administrative functions of Anaconda-Deer Lodge County, unless otherwise provided by this Charter.
2. The Manager's responsibilities shall be to:
 - a. enforce laws, ordinances, and resolutions.
 - b. direct, supervise, and administer all departments and agencies of Anaconda-Deer Lodge County.
 - c. appoint and remove department heads with the approval of the Commission.
 - d. appoint, remove and supervise employees in consultation with the department heads.
 - e. prepare the Commission agenda.
 - f. attend Commission meetings unless excused by the Commission and may participate in discussions.

- g. execute bonds, notes, contracts, and written obligations of the local government, subject to Commission approval.
- h. prepare and present the budget to the Commission for its approval and execute the budget adopted by the Commission.
- i. recommend measures to the Commission.
- j. report, as the Commission may require, on the affairs and financial condition of the local government and prepare and present a written annual report.
- k. recommend revisions of the Administrative Code and Personnel System.
- l. carry out policies established by the Commission and perform other assignments as required by the Commission.

Article V

Administration

Section 1. General.

The activities under the direction and supervision of the Manager shall be distributed among such departments and agencies as are established by this Charter or may be established thereunder by ordinance of the Commission in order to execute and enforce policies as determined by the Commission and to carry out obligations imposed on Anaconda-Deer Lodge County by state law.

Section 2. Administrative Code.

1. The Administrative Code shall provide the complete plan of organization and structure of Anaconda-Deer Lodge County.

2. The Administrative Code shall include:

- a. the departmental organization of the government, the nature and scope of each department, and rules and procedures for department operation.
- b. comprehensive budget procedures for the government in accordance with state law.
- c. procedures regarding boards, commissions, advisors, studies and any other government activities.

Section 3. Personnel System.

1. The Anaconda-Deer Lodge County Personnel System shall provide for hiring on the basis of merit and shall include a salary schedule, provisions for vacations, sick leaves, insurance and other benefits for all employees in accordance with provisions of this Charter; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an equitable Personnel system including honoring of all collective bargaining agreements.

2. State laws with regard to nepotism shall apply.

Article VI

County Attorney

Section 1. Duties.

The County Attorney shall be the prosecuting attorney and the legal counsel to Anaconda-Deer Lodge County and shall have those duties set by state law.

Section 2. Election, Qualifications, Removal, and Vacancy.

1. The County Attorney shall be elected for a four (4) year term on a partisan ballot, shall have qualifications set by state law, and may be removed from office as provided by state law.

2. In the event of a vacancy, the Commissioners shall appoint a qualified person to fill the vacancy until the next regular Anaconda-Deer Lodge County election at which time the remainder of the term shall be completed as required by law.

Section 3. Compensation.

The County Attorney shall be compensated according to state law.

Article VII

Popular Controls

Section 1. Initiative, Referendum, and Recall.

The people of Anaconda-Deer Lodge County may exercise initiative, referendum, and recall as provided by state law.

Section 2. Open Government.

All meetings and records of Anaconda-Deer Lodge County shall be open to the public as provided by state law.

Section 3. Advisory Councils.

1. There shall be advisory councils in each district composed of three (3) members who shall be elected for a term of office of two (2) years. Elections for the advisory council shall be non-partisan.

2. The advisory councils will function as a communication link between the citizens in the district and the Commissioner from that district by advising him of the various problems of the district and making recommendations for improvements and for the future development of Anaconda-Deer Lodge County. The advisory councils will have advisory power only with no official policy-making or legislative power.

3. There shall be no compensation for members of the advisory councils except that they shall be paid actual expenses incurred in the performance of their duties of office while attending to Anaconda-Deer Lodge County business.

4. All vacancies on the advisory councils shall be filled by appointment by the Commissioner from that district with approval of the Commission.

5. Advisory councils shall organize themselves and follow procedures established by the Commission.

Article VIII

Service Districts

Section 1. General Services District.

1. The total area of Anaconda-Deer Lodge County shall consist of a General Service District in which all property shall be taxed at a rate based on the level of services actually provided.

2. The Commission shall determine by ordinance the rates of taxation except that no differential tax for new services or increased levels of service can be imposed until provision has been made for delivery of the service.

3. Any Ordinance establishing differential tax rates shall be subject to complete public hearing procedures as provided by law.

Section 2. Special or Local Improvement Districts.

The Commission may create Special or Local Improvement Districts as provided by law.

Article IX

Miscellaneous Provisions

Section 1. Charter Amendment.

This Charter may be amended as provided by state law.

Section 2. Effective Date.

This Charter shall become effective on May 2, 1977.

Section 3. Judicial.

The offices of Police Judge, Justice of the Peace, and Constable shall be as provided by state law.

Section 4. Separability.

If any section, sub-section, paragraph, sentence, clause, or phrase of this Charter, or the application thereof to any person or circumstance, should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions or other applications of this Charter.

Article X

Consolidation/Transitional Provisions

Section 1. General Provisions.

1. Each provision of this Transition Article (Article X) shall be published as a part of this Charter until it has been implemented.

2. Transition to this Charter government shall be as prescribed by this Charter and state law. The Commission may provide for such transition by ordinance, rule, or resolution not inconsistent with law.

3. During the period of the transition, the Commission may appoint a temporary advisory committee consisting of former mayors, aldermen, and county commissioners.

Section 2. Continuity.

1. Each rule, ordinance, or resolution of the Anaconda and Deer Lodge County governments shall remain in force within those former geographic jurisdictions until superseded by action of the Commission. The Commission shall revise, repeal, or reaffirm all such rules, ordinances, and resolutions by May 2, 1979.

2. Anaconda-Deer Lodge County shall be vested with and shall hold, own and control all rights and property of every kind and nature including claims and franchises, owned or controlled by the former city and county governments on the effective date of this Charter. It shall be subject to all debts, obligations, contracts and liabilities of the former city and county governments on the effective date of this Charter.

3. All general obligation bonded indebtedness of the former city and county governments shall remain payable from the jurisdiction subject to indebtedness.

4. Revenue bond or special fund indebtedness not involving a general obligation of the former city and county governments shall continue in effect and be payable according to the terms of such indebtedness.

5. All Anaconda and Deer Lodge County officials or employees, except the Mayor, City Council members, and County Commissioners, may continue in the performance of their duties according to existing personnel procedures or until their positions are terminated by the Administrative Code. Employees whose positions are terminated by provisions of the Administrative Code shall be given first consideration for other Anaconda-Deer Lodge County employment.

6. City and county employees initially will be assigned duties based on seniority except that seniority will not necessarily determine department heads or foremen. Department heads and foremen shall be chosen by the Manager on the basis of merit including knowledge and experience in the former city and county governments.

7. All rights and benefits of city and county employees shall be recognized by this Charter.

Section 3. Initial Procedures.

1. The Commission shall meet on May 2, 1977, to elect its chairman, establish regular meeting dates, provide for appointment of the Manager, and set the agenda for the next meeting. At this first meeting, the Commissioners shall draw lots to establish three (3) terms of office of four (4) years each and two (2) terms of office of two (2) years each.

2. The Commission, at its first meeting shall adopt ordinances and resolutions necessary to effect the transition of government under this Charter and to maintain effective county government during the transition.

3. Each newly elected Commissioner shall receive an initial salary of \$200.00 per month.

4. Until modified in accordance with the provisions of this Charter, Commission districts shall be as follows:

<u>Commissioner District</u>	<u>Enumeration District Number</u>
#1	11
	12
	15
	16
	16
#2	7
	9
	10
	13
	14
	14
#3	4
	5
	6
	8
#4	1
	2
#5	3
	17
	18
	19
	20

Section 4. Manager, Administrative Code, and Personnel System.

1. The Commission shall appoint the Manager on or before August 1, 1977.

2. Within nine (9) months of the appointment of the Manager, the Manager shall prepare and submit an Administrative Code and Personnel System to the Commission for review, amendment, and adoption by ordinance. The Code and Personnel System shall not be in violation of any union collectively bargaining contract in force at the time of adoption of said Code and System.

3. The Commission shall adopt the Administrative Code and Personnel System by ordinance as submitted or amended within three (3) months of the date of submission by the Manager.

4. The method and schedule for implementation of the Administrative Code and Personnel System shall be provided in the ordinances adopting them.

5. No later than March 1, 1979, the Manager shall submit a codification of ordinances and resolutions to the Commission for review, amendment, and adoption by ordinance.

Section 5. Service Districts.

The Service Districts now established within the City of Anaconda and within the County of Deer Lodge shall remain in effect until they are changed as provided in this Charter.