

**ANACONDA-DEER LODGE COUNTY ORDINANCE NO. 257**

**AN ORDINANCE AMENDING ORDINANCES 126 AND 240 BY RESTRUCTURING THE OLD WORKS GOLF COURSE AUTHORITY BOARD AND CHANGING THE METHODS OF MANAGEMENT AND OPERATION**

**WHEREAS**, Ordinance 126 was adopted in 1993, and amended in Ordinance 240 in 2015, which created the Old Works Golf Course Authority Board, and detailed its membership, structure and operations, and

**WHEREAS**, the Old Works Authority Board members have played an important role in directing management and providing oversight of the Old Works Golf Course operations, and the City-County appreciates their individual and collective service to the community, and

**WHEREAS**, the Old Works Golf Course has operated at a substantial annual deficit, and Atlantic Richfield Company has provided funds to support on-going golf course operations by covering the shortfall in operations funding, and

**WHEREAS**, the Old Works Golf Course has also deferred substantial maintenance and equipment replacement due to a lack of available funds, and

**WHEREAS**, the current business model is not sustainable, and the management structure set forth in the present Ordinance must be amended to provide the Commission with direct authority to manage and oversee Old Works Golf Course Operations, and

**WHEREAS**, the County and Atlantic Richfield Company are working together to reach agreement upon a funding agreement and other terms that will support the County's efforts to sustainably manage the Old Works Golf Course operations, and

**WHEREAS**, a simplified structure for management and oversight of Old Works Golf Course operations is desired that provides the County with direct authority, through its Commission, to establish and implement an updated business model that stabilizes course finances and maintains the Old Works as a quality golf course and community amenity, and

**WHEREAS**, Anaconda Deer Lodge County is a charter form of government pursuant to the Montana Constitution and Montana law, and may exercise any power not expressly prohibited.

This Ordinance is intended to fully implement Anaconda Deer Lodge County's self-governing powers.

**NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:**

1. The Anaconda Deer Lodge County Code, Article VIII, Division 1, shall be amended to read as follows:

ARTICLE VIII. - AMENDED OLD WORKS GOLF COURSE CODE

DIVISION 1. - GENERALLY

Sec. 2-1070. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Anaconda's Old Works Golf Course* or *golf course* means the golf course, parking lot and related improvements (exclusive of the improvements) constructed by ARCO or others on the golf course property.

*AR* means the Atlantic Richfield Company, a Delaware corporation, and its subsidiaries, including, but not limited to, its affiliate ARCO Environmental Remediation LLC (AERL).

*Authority* means the Old Works Golf Course, Inc. that is authorized by this chapter.

*Authority board* means the persons selected pursuant to article II, division 4 of this chapter as members of the board of directors of the Authority.

*Chief executive* means the chief executive of the County.

*Golf course manager* means the individual, firm or firms selected by the Authority board to conduct and manage the day-to-day maintenance and operation of Anaconda's Old Works Golf Course and the improvements. The golf course manager shall be a professional golf course management organization or a qualified individual with substantial experience and expertise in management, operations, maintenance, marketing and promotion of daily fee golf courses and related facilities.

*Golf course net revenues* means the amount of golf course revenues remaining after the payment of or provision for those items listed in section 2-1149.

*Golf course property* means the property upon which Anaconda's Old Works Golf Course and the Old Works Historic Trail is located.

*Golf course revenues* means revenues generated by and from the use or operation of the golf course including, without limitation, revenues derived from use or operation of the improvements.

*Improvements* means the clubhouse and related facilities that were or may in the future be constructed by the County on the golf course property.

(Comp. 1995, § 2.44.010; Ord. No. 126(part), 1993; Ord. No. 126, § I, 8-27-1996; [Ord. No. 240](#), § I, 5-19-2015)

Secs. 2-1071—2-1093. - Reserved.

DIVISION 2. - OLD WORKS GOLF COURSE AUTHORITY

Sec. 2-1094. - Creation of Authority.

The Commission does hereby authorize the creation of the Authority, to be organized as a public benefit nonprofit corporation pursuant to the Montana Nonprofit Corporation Act. The Commission hereby acknowledges that Old Works Golf Course, Inc. has been formed as a state nonprofit corporation and hereby confirms their approval of the organizational documents for the corporation (collectively, the "organizational documents"). The organizational documents shall not be amended, modified or restated without the prior review and approval by the Commission of any such proposed amendment, modification or restatement.

(Comp. 1995, § 2.44.020; Ord. No. 126(part), 1993; Ord. No. 126, § 2.01, 8-27-1996)

Sec. 2-1095. - Purposes, goals and objectives of the authority.

(a) The goals and objectives of the Authority are as follows:

- (1) Operate, manage and maintain the golf course property so as to:
  - a. Comply with any remediation performance standards from the EPA;
  - b. Comply with requirements imposed in any agreements or deeds between the County and AR;
  - c. Comply with any other applicable requirements or restrictions relating to the use, operation, maintenance or improvement of the golf course and the golf course property;
  - d. Protect and preserve any and all remediation structures placed, constructed or installed on the golf course property as part of the remediation process; and
  - e. Comply with any other applicable federal, state or local laws, ordinances or regulations.
- (2) Operate, manage and maintain the golf course as a quality golf course facility and in a manner that ensures its continued designation as a golf course designed by Jack Nicklaus.
- (3) Operate, manage and maintain the golf course and improvements so as to generate economic activity in the County and provide a source of revenue for the County.
- (4) Operate, manage and maintain the golf course and improvements to achieve financial viability so as to eliminate to the maximum extent possible the need for outside funds or direct County support to subsidize its ongoing operation and maintenance.
- (5) Operate, manage and maintain the golf course and improvements in a manner that is beneficial to the citizens of the County.

(b) Nothing stated in this section is intended, nor shall it be deemed or construed, to create any liability whatsoever upon the County or the Authority with respect to environmental conditions of the golf course property or the required remediation, except as such matters:

- (1) May be addressed in any agreements or deeds between the County and AR; and

- (2) Relate to environmental conditions which are the result of the actions or conduct of the County or its agents subsequent to the conveyance of the golf course to the County.

(Comp. 1995, § 2.44.030; Ord. No. 126(part), 1993; Ord. No. 126, § 2.02, 8-27-1996; Ord. No. 240, § II, 5-19-2015)

**State Law reference**— Liability exposure and insurance coverage, MCA 2-9-301 et seq.

Sec. 2-1096. - Tax exempt status.

The Authority board shall take such actions from time to time as may be necessary to continue the authority's tax-exempt status under section 5.01 of the Internal Revenue Code.

(Comp. 1995, § 2.44.040; Ord. No. 126(part), 1993; Ord. No. 126, § 2.03, 8-27-1996)

Sec. 2-1097. - Property taxes.

The Authority shall be responsible for, and shall pay prior to delinquency, all real and personal property taxes and assessments which may be levied or assessed against the golf course, the improvements, and any associated personal property (collectively, the "taxable property") by any lawful authority, including without limitation the County. In the event the taxable property, or any portion thereof, is found to be exempt from such taxes and assessments, then to the extent there are sufficient golf course revenues the Authority shall pay on an annual basis, in lieu of and as a substitute therefore, a payment to the County equal to the amount of all property taxes and assessments which would otherwise have been required to be paid if the taxable property or any portion thereof was not determined to be tax exempt. The foregoing payment shall be made by the Authority on an annual basis, in installments, at the times property taxes would otherwise be required to be paid. The amounts of the payments to be made shall be determined on the basis of calculations to be made by the County in accordance with procedures substantially similar to its normal procedures for the assessment and levy of property taxes or special assessments, as applicable. Upon receipt of any payments in lieu of taxes and assessments, such payments shall be allocated and distributed among the various County funds in a manner substantially similar to the allocation of regular payments of taxes and assessments.

(Comp. 1995, § 2.44.050; Ord. No. 126(part), 1993; Ord. No. 126, § 2.04, 8-27-1996)

Sec. 2-1098. - Chief executive.

As required by the Charter, this Code, ordinances, or as requested by the Commission from time to time, the chief executive is authorized and may act on behalf of the County or the Commission as appropriate to exercise the County's rights under this article and fulfill the County's obligations hereunder.

(Comp. 1995, § 2.44.060; Ord. No. 126(part), 1993; Ord. No. 126, § 2.05, 8-27-1996)

Sec. 2-1099. - Powers of the authority.

- (a) *General powers.* Subject to the limitations set forth in this article, the Authority shall have such powers as may be necessary to fulfill the goals and objectives of the Authority as set

forth in section 2-1095, including, without limitation, those powers set forth in the Montana Nonprofit Corporation Act.

- (b) *Specific powers.* Without limiting the general powers set forth in subsection (a) of this section, the Authority shall be empowered to do the following:
- (1) Operate, manage and maintain (but not own) the Anaconda's Old Works Golf Course and improvements.
  - (2) Acquire, hold, lease, sell or otherwise dispose of personal property in the name of the Authority.
  - (3) Acquire, own, lease, operate and maintain equipment, inventory and supplies for operation, management and maintenance of the golf course and improvements in the name of the Authority.
  - (4) With the prior approval of the Commission, Except as otherwise provided in section 2-1142 and 2-1147, enter into contracts for goods and services for operation, management and maintenance of the golf course and improvements in the name of the Authority, including the contract for the golf course manager.
  - (5) Adopt, maintain and revise uniform, consistent and nondiscriminatory rules and regulations and a fee structure for the golf course and improvements.
  - (6) With the prior approval of the Commission, plan for, modify or expand the golf course and improvements; provided, however, that any material modification or expansion of the golf course must comply with any agreements or deeds between the County and AR and cannot cause the golf course to lose or jeopardize its designation as a golf course designed by Jack Nicklaus.
  - (7) Keep and maintain such permits, easements and licenses that may be necessary to operate, manage and maintain the golf course and improvements.
  - (8) Sue and be sued in its own name as separate legal entity.
  - (9) Employ agents, employees and such professional or other consultants that may be necessary or advisable from time to time; provided, however, that it is anticipated that the golf course and improvements shall be operated, managed and maintained by a professional golf course management firm.
  - (10) Have and use a corporate seal.
  - (11) Procure, obtain and maintain insurance policies relating to the golf course and improvements, and the operation and maintenance thereof.
  - (12) To carry out one or more of the purposes for which the Authority is established, the Authority is authorized to borrow money and to issue promissory notes, bonds or other obligations on such terms and conditions, containing such covenants, and pledging for the payment thereof such security or revenues as may be determined by the Authority board, and approved by the Commission; provided, however, that it shall not be permitted to pledge the golf course as security for any promissory notes, bonds or other obligations.

- (13) Adopt by resolution of the Authority board such regulations respecting exercising its powers as may be desirable or necessary to implement its goals and objectives.
- (14) Receive or reject contributions, gifts, bequests or other grants of cash, goods or services from entities, individuals or political subdivisions.
- (15) To generally exercise all powers which are necessary or incidental for the attainment of its purposes, goals and objectives in operation and maintenance of the golf course and improvements.
- (16) To take such actions as may be necessary to comply with the terms and conditions of any agreements or deeds between the County and AR.
- (17) Do and perform all acts authorized herein through or by means of an agent or contract with any person, firm or corporation.

(Comp. 1995, § 2.44.070; Ord. No. 126(part), 1993; Ord. No. 126, § III, 8-27-1996)

Sec. 2-1100. - Composition and selection of golf course authority board; regular board members.

The Authority board shall have seven regular members (the "regular members"). All regular members shall be appointed by the Commission and shall serve in accordance with this section.

- (1) *Qualifications.* All regular members of the Authority board shall be selected by reason of their individual experience, business experience, golf course operation, maintenance, management, marketing and promotion expertise, or public awareness and civic involvement.
- (2) *Designation of positions.* Due to the unique circumstances which give rise to creation and establishment of the Authority board, the Commission has determined that it is in the best interests of the Authority that regular members be selected and seats occupied to fulfill specific interests. These interests are designated as follows:
  - a. *Local citizenry.* Four (4) regular members demonstrating the qualifications set forth above shall be selected at large from the citizens residing in the County.
  - b. *Elected officials.* Two (2) regular members demonstrating the qualifications set forth above shall be persons serving on the current Commission.
  - c. *Chief Executive or designee.* One (1) member shall be the current Anaconda Deer Lodge County Chief Executive, or their designee if approved by the Commission.
- (3) *Selection and appointment of members.* All regular members of the Authority board set forth in (2) a. and b. above, including the initial regular members, shall be appointed by the Commission. In making such appointments, the Commission may solicit applications from or nominations of persons who possess the qualifications set forth in subsection (1) of this section.
- (4) *Term.* The terms of the regular members of the Authority board set forth in (2) a. above shall be five years with staggered expiration to ensure continuity of leadership. To create the staggered expiration of terms, the initial regular members shall select, by lots, two terms of two years, and two terms of five years. The position whose term is initially less than five years shall subsequently be filled as five-year terms. The terms set forth in (2) b. above shall be filled by a majority vote of the Commission for two-

year terms. The terms set forth in (2) c. above shall be filled by the duly elected or appointed Chief Executive then in office.

- (5) *Voting rights.* Each member shall have one vote for all matters to come before the Authority board.
- (6) *Removal.* A regular member of the Authority board may be removed for "just cause" by two-thirds or greater vote of the Commission. For purposes of this article, just cause shall be deemed to include:
  - a. Conviction of, or pleading no contest to, or pleading guilty to (whether by plea bargain or otherwise), a felony under the laws of the state or any other state;
  - b. Failure to perform his or her duties as a regular member of the Authority board, including, without limitation, repeated failure to attend Authority board meetings;
  - c. Actions which are inconsistent with the goals, purposes and objectives of the Authority;
  - d. Acts or omissions defined as just cause in the organizational documents; and
  - e. Acts or omissions which cause, or with the passage of time would cause, a default by the County under the conveyance documents.

(Comp. 1995, § 2.44.080; Ord. No. 126(part), 1993; Ord. No. 126, § 4.01, 8-27-1996)

Sec. 2-1101. – AR Ex officio board member.

The Authority board may include one ex officio member appointed by AR, who, if appointed, shall serve in accordance with this section. Such person shall serve until resignation or removal by AR. The AR ex officio member may be removed at any time by AR for any reason. Upon such removal, AR shall have the right to appoint a replacement ex officio member. The AR ex officio member shall have no voting rights, but shall have the right to notice of all Authority board meetings and the right to participate in such meetings on the same basis as a regular member in all other respects.

(Comp. 1995, § 2.44.080; Ord. No. 126(part), 1993; Ord. No. 126, § IV, 8-27-1996; Ord. No. 198, § 1, 2-3-2004)

Sec. 2-1102. - Operation of the Authority.

Except as modified or limited by this article, the business and affairs of the Authority shall be conducted by the Authority board in accordance with the provisions of the Montana Nonprofit Corporation Act. At the request of the Commission, the Authority shall execute and deliver to the County a management and operating agreement, which agreement shall more fully set forth the respective duties, obligations and privileges relating to the management, operation, maintenance, marketing and promotion of the golf course and improvements.

(Comp. 1995, § 2.44.090; Ord. No. 126(part), 1993; Ord. No. 126, § 5.01, 8-27-1996)

Sec. 2-1103. - Authority employees.

The management, operation, maintenance, marketing and promotion of the golf course and improvements in accordance with the Authority board's policies shall be conducted by the golf course manager selected and approved as set forth in section 2-1142. The Authority board shall not employ persons to conduct such activities. The Authority board may, however, employ persons to assist in the administration of the Authority and to facilitate the Authority in conducting its operations. The Authority board shall be responsible for:

- (1) Establishing any terms and conditions under which any such employees are hired or fired;
- (2) Paying any wages, salaries or compensation due such employee, including employment and retirement benefits as required by applicable law, if any; and
- (3) Obtaining and maintaining any required insurance related to such employee, including without limitation disability and workers' compensation insurance or coverage.

(Comp. 1995, § 2.44.100; Ord. No. 126(part), 1993; Ord. No. 126, § 5.02, 8-27-1996)

Sec. 2-1104. - Meetings open to the public.

All meetings of the Authority board shall be open to the public in accordance with applicable law.

(Comp. 1995, § 2.44.110; Ord. No. 126(part), 1993; Ord. No. 126, § 5.03, 8-27-1996)

Secs. 2-1105—2-1131. - Reserved.

### DIVISION 3. - GOLF COURSE POLICY RESPONSIBILITIES OF THE AUTHORITY BOARD

Sec. 2-1132. - Policy responsibilities.

Subject to any requirements or restrictions that may be set forth in the conveyance documents, the policy responsibilities of the Authority board shall include but not be limited to this division.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(intro.), 8-27-1996)

Sec. 2-1133. - Operation, management and maintenance.

The Authority board shall establish the policies for operation, management and maintenance of the golf course and improvements.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.01), 8-27-1996)

Sec. 2-1134. - Marketing and promotion.

The Authority board shall establish and coordinate implementation of the plans, objectives and mechanisms for marketing and promotion of the golf course and improvements with the golf course manager.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.02), 8-27-1996)

Sec. 2-1135. - Fees.

The Authority board shall establish the fees charged to play rounds of golf at the Old Works Golf Course and/or to use the improvements.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.03), 8-27-1996)

Sec. 2-1136. - Golf cart usage and fees.

The Authority board shall establish rules and fees for the use of golf carts at the Old Works Golf Course.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.04), 8-27-1996)

Sec. 2-1137. - Reservation of tee times.

The Authority board shall establish a policy for the reservation of tee times for business establishments, tour groups, local citizens, school groups, tournament committees, golf course instruction or other groups that are permitted to use the Old Works Golf Course and/or the improvements.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.05), 8-27-1996)

Sec. 2-1138. - Dress codes and conduct requirements.

The Authority board shall establish policies regarding the minimum standards of dress for play at and the standards of polite, personal conduct for persons using the Old Works Golf Course and/or the improvements.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.06), 8-27-1996)

Sec. 2-1139. - Policy making authority.

The Authority board shall have the duty and responsibility to make such other and further policies as are required for the fulfillment of the purposes, goals and objectives of the Authority.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.07), 8-27-1996)

Sec. 2-1140. - Advice and suggestions of golf course manager.

The Authority board shall seek the advice and suggestions of the golf course manager in establishing and enforcing all policies for the golf course and improvements including without limitation those policies described in this division.

(Comp. 1995, § 2.44.120; Ord. No. 126(part), 1993; Ord. No. 126, § VI(6.08), 8-27-1996)

Sec. 2-1141. - Management responsibilities of the authority board.

The management responsibilities of the Authority board shall include but not be limited to this division.

(Comp. 1995, § 2.44.130; Ord. No. 126(part), 1993; Ord. No. 126, § VII(intro.), 8-27-1996)

Sec. 2-1142. - Golf course manager.

The Authority board shall negotiate and, with the approval of the Commission, contract with a golf course manager to conduct the day-to-day operation of the golf course and improvements and to carry out the policies of the Authority board. The golf course manager shall be selected on an impartial basis and the person or firm selected shall be subject to approval by the Commission. At a minimum, the golf course manager shall be a Person who has five or more years of experience in the management of daily fee golf courses and related facilities, and is (i) an individual Professional Golf Association (PGA) member, (ii) an individual Club Management Association of America (CMAA) Certified Club Manager, or (iii) a professional golf management company that engages an individual qualified under (i) or (ii) as the general manager of the Golf Course.

(Comp. 1995, § 2.44.130; Ord. No. 126(part), 1993; Ord. No. 126, § VII(7.01), 8-27-1996)

Sec. 2-1143. - Insurance.

- (a) With respect to the operation of the golf course and improvements, the Authority shall obtain and maintain at all times:
- (1) Fire, casualty and extended coverage insurance for the Improvements on a replacement cost basis in an amount equal to the full insurance value thereof, which shall mean and include the actual replacement cost of the buildings, structures, improvements and contents therein, and all engineering, legal, and administrative fees (all without deduction for depreciation);
  - (2) During periods of construction of any improvements, a builder's all-risk policy with coverage on a completed value basis; and
  - (3) Comprehensive general liability insurance against liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or operation of the golf course or the improvements, or any part thereof, in such amounts as are customary for a prudent owner and operator of properties comparable to those comprising the golf course and improvements; provided, however, that with respect to the policies required under the foregoing subsections (a)(2) and (3) of this section, the Authority shall only be required to obtain and maintain insurance coverage reasonable necessary or prudent in light of the circumstances and marketplace at the time of the purchase and/or renewal of such policies.
- (b) The policies required under subsections (a)(1) and (2) of this section shall be written in the names of the Authority and the County as their respective interests may appear. The policies of insurance required under subsection (a)(3) of this section shall be endorsed to show the County as an additional insured. All such insurance policies shall be taken out and maintained with responsible insurance companies authorized to do business in the state. In lieu of separate policies, blanket policies having the coverage required herein may be maintained.
- (c) In order to avoid duplication of insurance coverages, the Authority may satisfy the foregoing obligations by requiring third parties (such as the golf course manager) to obtain and maintain such insurance, so long as:

- (1) The County and the Authority are named as additional insureds on such policies;
- (2) The minimum coverages and limits of liability are satisfied; and
- (3) The Authority complies with all other applicable insurance requirements of this division.

(Comp. 1995, § 2.44.130; Ord. No. 126(part), 1993; Ord. No. 126, § VII(7.02), 8-27-1996)

Sec. 2-1144. - Operations and maintenance budget.

On or before November 1 of each year, the Authority board shall, after consultation with the golf course manager, prepare an annual operations and maintenance budget (the O&M budget) for the golf course and improvements which shall include proposed and anticipated expenditures for operation, management, maintenance, marketing and promotion of the golf course and improvements for the forthcoming year and establish necessary allowances for reserves. The operation and maintenance budget for the operations shall be submitted to the Commission for review and approval.

(Comp. 1995, § 2.44.130; Ord. No. 126(part), 1993; Ord. No. 126, § VII(7.03), 8-27-1996)

Sec. 2-1145. - Capital improvements budget.

On or before December 1 of each year, the Authority board shall, after consultation with the golf course manager, prepare an annual capital improvements budget (the capital improvements budget) for the golf course and improvements which shall include proposed and anticipated capital expenditures for the golf course and improvements for the forthcoming year. The capital improvements budget shall be submitted to the Commission for review and approval. For purposes of this division, a capital improvement shall include any expenditure for the golf course or improvements which must be capitalized for financial accounting purposes in accordance with generally accepted accounting principles.

(Comp. 1995, § 2.44.130; Ord. No. 126(part), 1993; Ord. No. 126, § VII(7.04), 8-27-1996)

Sec. 2-1146. - Clubhouse management.

The Authority board, with the advice and suggestions of the golf course manager, shall establish rules and regulations for the operation and management of the improvements.

(Comp. 1995, § 2.44.130; Ord. No. 126(part), 1993; Ord. No. 126, § VII(7.05), 8-27-1996)

Sec. 2-1147. - Contractual obligations.

The Authority board shall submit all written contracts tentatively negotiated for the operation, management, maintenance, marketing and promotion of the golf course and improvements to the Commission for approval.

(Comp. 1995, § 2.44.130; Ord. No. 126(part), 1993; Ord. No. 126, § VII(7.06), 8-27-1996)

Sec. 2-1148. - Revenue distribution responsibilities of the Authority board.

The Authority board revenue distribution responsibilities shall include, without limitation, this division.

(Comp. 1995, § 2.44.140; Ord. No. 126(part), 1993; Ord. No. 126, § VIII(intro.), 8-27-1996)

Sec. 2-1149. - Uses of the golf course revenues.

Golf course revenues shall be used to provide, in accordance with section 2-1095, the following:

- (1) Continuing operation, management, and maintenance of the golf course, the Old Works Historic Trail, and the improvements, including required insurance, so as to maintain the high standards of design and construction.
- (2) Timely payment and retirement of debt incurred with respect to the improvements and the equipment, inventory and supplies associated with the golf course and improvements.
- (3) Marketing and promotion of the golf course and improvements.
- (4) Payments of real and personal property taxes or payments in lieu thereof pursuant to section 2-1097.
- (5) Allowing for funding reserves sufficient for the purpose of making capital improvements to the golf course and the improvements, subject to the provisions of section 2-1099(b)(7).

(Comp. 1995, § 2.44.140; Ord. No. 126(part), 1993; Ord. No. 126, § VIII(8.01), 8-27-1996; Ord. No. 240, § III, 5-19-2015)

Sec. 2-1150. - Use of golf course net revenues.

- (a) If there are funds available after funds are expended pursuant to section 2-1149, such golf course net revenues shall be distributed annually either to:
  - (1) The County to be held in a separate fund exclusively for the uses described in subsection (b) of this section; or
  - (2) A trust established by the Commission.
- (b) The purpose of which is to provide funding for the uses described below:
  - (1) Historic preservation of sites and facilities within the County.
  - (2) Economic development actions or projects for the County.
  - (3) Construction, maintenance and operation of parks, trails and infrastructure.
- (c) The actual allocation and distribution of the golf course net revenues among the purposes or uses set forth subsection (b) of this section shall be determined by the Commission.

(Comp. 1995, § 2.44.140; Ord. No. 126(part), 1993; Ord. No. 126, § VIII(8.02), 8-27-1996)

Sec. 2-1151. - Accounting and audit requirements.

The Authority board shall strictly account for all golf course revenues and any other funds or property received, invested, paid and distributed by the Authority. An annual audit conducted by an independent certified public accountant prepared in accordance with generally accepted accounting principles of these transactions shall be submitted to the Commission for review. The audit shall be paid for by the Authority board or the golf course manager.

(Comp. 1995, § 2.44.140; Ord. No. 126(part), 1993; Ord. No. 126, § VIII(8.03), 8-27-1996)

Sec. 2-1152. - Nonliability of County for authority debts or other obligations.

It is expressly intended that the Authority, and the operation, management and maintenance of the golf course and the improvements is to be a self-supporting venture and funded by and through the golf course revenues. Accordingly, neither the County nor the Commission shall be liable to any person or entity for the debts, liabilities or obligations of the Authority or the Authority board. The Authority is not authorized and shall not pledge the general credit or taxing powers of the County in any manner or nature whatsoever, nor shall any agreements or obligations of the Authority be construed to constitute an indebtedness of or pecuniary liability upon the County within the meaning of any constitutional or statutory provision whatsoever. A statement to the effect of the foregoing shall be included in all agreements or obligations entered into or issued by the Authority. Notwithstanding the foregoing, the County shall be allowed, but not mandated, to provide direct financial support to the Authority for the operation and maintenance of the golf course if the golf course is unable to be operated and maintained as a fully self-supporting venture. Any direct financial support from the County to the golf course shall be in the sole discretion of the Commission as to the amount, if any, of such support and as to the terms and conditions thereof.

(Comp. 1995, § 2.44.150; Ord. No. 126(part), 1993; Ord. No. 126, § IX, 8-27-1996; Ord. No. 240, § IV, 5-19-2015)

Sec. 2-1153. - Police power and safety clause.

The Commission hereby finds, determine and declare that this division is in the best interests of the County and necessary for the protection of the public health, safety and welfare.

(Comp. 1995, § 2.44.160; Ord. No. 126(part), 1993; Ord. No. 126, § X, 8-27-1996)

Sec. 2-1154. - Repeal of inconsistent proceedings.

All provisions of ordinances, resolutions or other actions and proceedings of the County which are in any way inconsistent with the terms and provisions of this division, including, without limitation, the original provisions of Ordinance No. 126, 1993, Amended Ordinance 126, 1996, Ordinance 126-A, 2006, and Ordinance No. 240, 2015, are repealed amended and rescinded to the full extent necessary to give full force and effect to the provisions of this division.

(Ord. No. 126, § XI(11.01), 8-27-1996)

Sec. 2-1155. - Amendments and conflicts.

This division may be amended, in full or in part, from time to time by the Commission in order to effectuate the arrangements and transactions contemplated herein. In the event of a conflict between the provisions of this division and the provisions of the organizational documents, the conflicting provisions of the said organizational documents shall be modified to be consistent with this Ordinance.

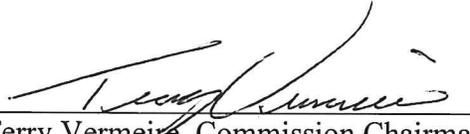
(Comp. 1995, § 2.44.170; Ord. No. 126(part), 1993; Ord. No. 126, § XII, 8-27-1996)

Sec. 2-1156. - Transitional provisions.

Upon passage and approval of this Ordinance, the Commission shall appoint the members specified in Sec. 2-1100 above, to assume their office upon the effective date of this Ordinance. At that time, all previous members of the golf course Authority board shall be deemed replaced, and shall have no additional authority. In addition, subject to any required Commission approvals, the Authority board may enter such short term contracts, and take other actions deemed necessary to conserve fiscal resources and continue operation of the Old Works Golf Course without interruption.

Secs. 2-1157—2-1173. - Reserved.

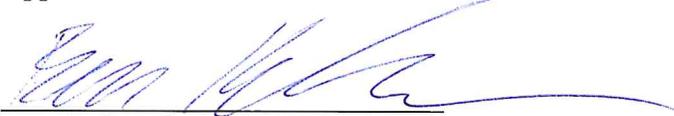
Approved this 1<sup>st</sup> day of October, 2019.

  
Terry Vermeire, Commission Chairman

Witness:

  
Lori Sturm, Commission Clerk

Approved to Form:

  
Ben Krakowka, County Attorney

First Reading:	September 10, 2019
Second Reading/Public Hearing:	September 24, 2019
Adopted:	October 1, 2019

Effective Date: October 31, 2019