

BUTTE-SILVER BOW HEALTH DEPARTMENT

Bylaws

Butte-Silver Bow Board of Health

4/6/2016



These bylaws serve as the guiding document for the creation, jurisdiction, powers and duties of the Butte-Silver Bow Board of Health, Butte, Mont.

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Article I:
Creation

The Butte-Silver Bow Board of Health is created pursuant to Montana Code Annotated (MCA) Section 50-2-106 (City-County Boards of Health) and Butte-Silver Bow Municipal Code Title 2, Chapter 2.28 (Administration and Personnel, Board of Health).

Article II:
Jurisdiction

The Butte-Silver Bow Board of Health has jurisdiction in Butte-Silver Bow, as provided for by Montana law for city-county boards of health.

ARTICLE III:
Functions, Powers and Duties

Section 1. Statutory Functions, Powers and Duties. The following are based on MCA Section 50-2-116 (City-County Boards of Health).

1. In order to carry out the purposes of the public health system, in collaboration with federal, state and local partners, the Butte-Silver Bow Board of Health shall:
 - a. appoint and fix the salary of a local health officer who is:
 - i. a physician;
 - ii. a person with a master's degree in public health; or
 - iii. a person with equivalent education and experience, as determined by the Montana Department of Public Health and Human Services (DPHHS);
 - b. elect a presiding officer and other necessary officers;
 - c. employ qualified staff;
 - d. adopt bylaws to govern meetings;
 - e. hold regular meetings at least quarterly and hold special meetings as necessary;
 - f. identify, assess, prevent, and ameliorate conditions of public health importance through:
 - i. epidemiological tracking and investigation;
 - ii. screening and testing;
 - iii. isolation and quarantine measures;
 - iv. diagnosis, treatment and case management;
 - v. abatement of public health nuisances;
 - vi. inspections;
 - vii. collecting and maintaining health information;
 - viii. education and training of health professionals; or
 - ix. other public health measures as allowed by law;
 - g. protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;
 - h. supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction or removal of the conditions;
 - i. bring and pursue actions and issue orders necessary to abate, restrain or prosecute the violation of public health laws, rules and local regulations;

- j. identify to DPHHS the local health officer as the administrative liaison for public health;
 - k. as per MCA 50-2-130 (Local Regulations No More Stringent than State Regulations or Guidelines), adopt necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6 (Environmental Protection, Public Water Supplies, Distribution, and Treatment), or Title 76, chapter 4 (Land Resources and Use, State Regulation of Subdivisions). The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the Board of Environmental Review, provided for in MCA 2-15-3502 (Board of Environmental Review), and must provide for appeal of variance decisions to DPHHS as required by MCA 75-5-305 (Adoption of Requirements for Treatment of Wastes – Variance Procedure – Appeals). In terms of the board’s regulation or permitting of water well drilling, regulations must prohibit the drilling of a well if the well isolation zone, as defined in MCA 76-4-102 (Definitions), encroaches onto adjacent private property without the authorization of the private property owner.
2. The Butte-Silver Bow Board of Health may:
- a. accept and spend funds received from a federal agency, the state, a school district or other persons or entities;
 - b. adopt necessary fees to administer regulations for the control and disposal of sewage from private and public buildings and facilities;
 - c. adopt regulations that do not conflict with rules adopted by DPHHS:
 - i. for the control of communicable diseases;
 - ii. for the removal of filth that might cause disease or adversely affect public health;
 - iii. subject to the provisions of MCA 50-2-130 (Local Regulations No More Stringent than State Regulations or Guidelines), for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401(Temporary Board Rules for Permits – Ground Water Exclusions);
 - iv. for the establishment of institutional controls that have been selected or approved by the:
 - 1. U.S. Environmental Protection Agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or
 - 2. Montana Department of Environmental Quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and
 - v. to implement the public health laws; and
3. The Butte-Silver Bow Board of Health may provide, implement, facilitate or encourage other public health services and functions as considered reasonable and necessary.
4. The Butte-Silver Bow Board of Health shall oversee and conduct annual funding administration of the Health Initiatives component of the Redevelopment Trust, a fund provided to the people of Butte-Silver Bow through a negotiated settlement between the City and County of Butte-Silver Bow and the Atlantic Richfield Company. From the total amounts deposited into the Redevelopment Trust, Butte-Silver Bow shall set aside, manage and use

over a period of years a minimum of \$1 million, with additional funding available, subject to the review and approval of the Superfund Advisory and Redevelopment Trust Authority. In its oversight and annual funding administration of the Health Initiatives component of the Redevelopment Trust, the Board of Health will ensure implementation of health lifestyle initiatives.

Section 2. Other Functions, Powers and Duties.

1. The Board of Health shall nominate a representative to the Butte-Silver Bow Superfund Advisory and Redevelopment Trust Authority. This representative, confirmed by the Council of Commissioners, shall have professional expertise in the discipline of medicine or health science. This representative, along with other authority representatives, will:
 - a. interface with the Chief Executive and/or his/her delegated employees accountable for coordinating Superfund activities, to direct, manage and distribute Redevelopment Trust Funds in a manner that complies with the provisions set forth in the “Allocation and Settlement Agreement and Mutual Release of Claims By and Between the City and County of Butte-Silver Bow and Atlantic Richfield Company.” The objective of the Authority is to:
 - i. advise the local government in the long-term improvement, redevelopment/re-use, cleanup, treatment, management, monitoring and/or maintenance of remediated and un-remediated Superfund and/or other environmentally impacted properties/sites within the Butte-Silver Bow;
 - ii. plan, engage and promote redevelopment and/or re-use of land/properties, both remediated and un-remediated, within the Butte Priority Soils Operable Unit (BPSOU) that are affected from past mining impacts;
 - b. pay particular attention to expenditures related to the Health Initiatives portion of the Redevelopment Trust Funds. Butte-Silver Bow shall set aside, manage and use over a period of years a minimum of One Million and No/100ths Dollars (\$1,000,000.00), with additional funding available subject to the review and approval of the authority, and with oversight and annual funding administration through the Board of Health, to implement healthy lifestyle initiatives, including, without limitation, education and a low-income subsidy program for the replacement of wood-burning heating equipment and the purchase and installation of insulation for attics following remediation/abatement under the Multi-Pathway Program, specifically, the Health Department’s Residential Metals Abatement Program.
2. The Board of Health shall:
 - a. hear and act upon grievances of Butte-Silver Bow citizens;
 - b. make reports to the Chief Executive and Council of Commissioners on matters that may be requested by the Chief Executive;
 - c. maintain a close working relationship with DPHHS in the adoption of standards, development of competency needed to meet local health problems, use of expert consultative services available, and in obtaining state and federal funds to meet the public health needs of the community;
 - d. conduct a performance evaluation of the health officer after a six-month probationary period, and annually, or as deemed as necessary, to ensure that the health officer is a qualified staff member, as set forth in MCA 50-2-116(1)(c) (Powers and Duties of Local Boards of Health); Butte-Silver Bow Municipal Code 2.28.040(b) (Administration of Personnel, Board of Health; Functions, Powers and Duties; Employment the Necessary, Qualified Staff to Carry Out Health Programs); and a

Memorandum Of Understanding between Butte-Silver Bow and the Board of Health, dated June 5, 2013, under which the board shall communicate the findings from each evaluation to the Chief Executive, as the health officer shall be subject to the direction and supervision of the Chief Executive. The board shall be involved in the process associated with any and all personnel matters regarding the health officer.

ARTICLE IV:
Board Members

Section 1. Members. The Board of Health is comprised of seven members, appointed by the Butte-Silver Bow Chief Executive and confirmed by the Butte-Silver Bow Council of Commissioners, which has jurisdiction of the Butte-Silver Bow Health Department. At least three members of the board shall be healthcare professionals. All members of the board must reside within the jurisdictional area of Butte-Silver Bow.

Section 2. Terms. Terms of appointed members must be staggered and must be for three years each, the staggered order of terms ensuring establishment and maintenance of the board.

Section 3. Absenteeism. As the proper functioning of the Board of Health is seriously impaired by the absence of its members, board members will make every effort to attend monthly meetings.

Section 4. Advisory Members. The Board of Health may appoint non-voting advisory members to serve at the pleasure of the Board.

Section 5. Vacancies. Vacancies shall be filled for the unexpired portion of the term, in the same manner as members are originally appointed and confirmed.

Section 6. Removal for Cause. Members may be removed for cause by a two-thirds majority of the Council of Commissioners upon written charges and after public hearing.

Section 7. Compensation. Board members shall serve without compensation. Board members shall be reimbursed for actual expenses incurred in the performance of their duties in the same manner as employees of Butte-Silver Bow government are reimbursed.

Article V
Officers:

Section 1. Elections. Presiding officers shall be elected at the first regular meeting in each calendar year (January), and shall serve until the first regular meeting in the following calendar year (January). Board members elected to fill officer vacancies shall serve until the first regular meeting in the calendar year in which the vacancy occurred.

Section 2. Chair. The Board of Health shall elect a chair who shall conduct all meetings and business of the board.

Section 3. Vice Chair. The Board of Health shall elect a vice chair who shall conduct all meetings and business of the board in the chair's absence.

Section 4. Secretary. The Butte-Silver Bow Health Officer is the secretary of the Board of Health and shall:

1. keep hard-copy minutes of the meetings in one or more books provided for that purpose, and digital minutes will be saved;
2. see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; and,
3. bring a copy of these bylaws to every meeting.

ARTICLE VI:
Meetings

Section 1. Annual Organizational Meetings.

1. An annual organization meeting is held each January to:
 - a. elect officers and appoint advisory members; and
 - b. review the broad objectives that guide the board.

Section 2. Regular Meetings. Although city-county boards of health are required only to meet once a quarter, it is the intent of the Butte-Silver Bow Board of Health to meet monthly. The agenda for the board's July meeting will include action items, for authorization of contracts only.

Section 3. Special Meetings. Special meetings shall be at the call of the chair, the request of the health officer, or the request of three (3) members. Meetings may be called for viewing places of potential health hazards.

Section 4. Quorum. Four members constitute a quorum for all meetings. If any meeting is convened where there is not a quorum, the members present may discuss routine matters but may not hear testimony or take formal action on any matter requiring motion and a vote.

Section 5. Manner of Action. An act of a majority of the members present at a meeting at which a quorum is present shall be the act of the board members, except where otherwise provided by law or by these bylaws. There is no proxy voting.

Section 6. Parliamentary Procedure. For all procedural matters not specifically covered in these bylaws, the controlling parliamentary authority for the Board of Health is Robert's Rules of Order, Newly Revised. The chair, being a co-equal member of the board, shall in addition to presiding, have a right to participate in debate, and shall vote on all motions, and not only where the vote of the chair would create or break a tie. A motion, once stated and seconded, limits the debate to points relevant to the motion. Prior to a formal motion being stated, general discussion of, and the presentation of information relevant to an agenda item being considered, is in order. Before the consideration of any measure or the taking of any action, concerning which a public hearing has not been previously held, or will not be held, the chair may allow members of the audience to be heard. No member of the audience may be heard during or after the board discussion. The chair may reasonably limit audience participation at any time. Reconsideration of any action of the board may be allowed at any time, upon motion of any member of the board, such motion being approved by at least four board members. Routine matters, such as setting meeting times and adjournment, setting future agenda items, or appointment of committees, may be by consensus rather than by motion and vote.

Section 7. Notice of Meetings. The secretary shall notify all members of all meetings either orally or in writing. No special meeting shall be held unless diligent efforts have been made to notify all members.

Section 8. Open Meeting Requirements. All meetings of the Board of Health are open to the public. MCA Section 2-3-203(1) (Meetings of Public Agencies and Certain Associations of Public Agencies to be Open to Public – Exceptions). Meetings may be closed to the public when the discussion relates to a matter of individual privacy and then only where the chair determines on the record that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting remains open to the public, MCA Section 2-3-203(2)(3) (Meetings of Public Agencies and Certain Associations of Public Agencies to be Open to Public – Exceptions). To comply with the spirit and intent of the open meeting and public participation laws, public notice of not less than two business days shall be given of all board meetings, regular and special. Two business days notice need not be given where the board must deal with an emergency situation affecting the public health, welfare, or safety, MCA Section 2-3-112(1) (Exceptions).

Section 9. Agenda. Agenda items should be submitted to the secretary at least seven (7) days before a meeting. This rule may be suspended with the affirmative vote of a majority of the members as the board deems necessary to deal promptly and effectively with unforeseen issues.

Section 10. Minutes. Minutes of all Board of Health meetings shall be kept by the secretary or designee, and shall be signed by the secretary and by the chair after approval by the Board at the next meeting. Minutes of all open meetings, and portions of meetings that are open to the public, shall be kept available for inspection by the public. The secretary shall keep separate minutes of all discussions and votes held during executive sessions. The minutes need not have detailed reports of discussions but shall have all motions and a roll call vote. The minutes should include the names of members present and members absent, staff and public present.

ARTICLE VII: Hearings

Section 1. Notice of Hearings. Notice of hearings shall be given to the public, Board of Health members, staff and to the grievant, applicant or person appealing a department decision.

Section 2. Procedure for Hearings. The following procedures shall be followed for all quasi-judicial and quasi-legislative hearings:

1. the Board of Health chair, or designee, shall preside;
2. hearings shall be tape-recorded. Preservation of the tape recordings is the responsibility of Health Department staff. Tape recordings shall be preserved for three (3) years;
3. the chair shall state the issue at the opening of the hearing. Comments shall be limited to the issues stated;
4. all questions and comments must be directed through the chair;
5. persons giving testimony must give their name, address and who they represent;
6. before giving testimony on material facts, all witnesses shall be sworn by an officer authorized to administer oaths;
7. copies of prepared statements shall be given to the chair and shall become part of the record. Statements received by mail shall be read by the chair and shall become a part of the record. If lengthy, they may be summarized by the chair;
8. order of presentation:
 - a. staff report including proof of notice and questions by board members;
 - b. comments by the petitioner and questions by the board;

- c. written comments read by the chair;
- d. public comment and questions by the board;
- e. staff's comments;
- f. petitioner's rebuttal comments and questions by the board;
- g. questions from board members to any person providing comments and close factual record;
- h. board deliberation and decision. A record of the vote of each member present and voting shall be entered as to the decision. The decision shall be reduced to writing and signed by the chair and secretary. Board members may attach or append comments or exhibits to the written decision. Copies of the decision and appendices shall be provided to the parties;
- i. the chair shall determine the amount of time allotted to each segment. A list of the public wishing to comment shall be circulated before the hearing and each commentator shall be allocated an equal share of the public comment time;
- j. if the time has not expired prior to the closing public comment, the chair shall make a final call for further comment. When the time limit is reached or when there is no response to the final call for public comment, the hearing will be closed to public comment and the matter will return to the board for discussion and action. During the board discussion, the chair may direct questions to staff, petitioner, or members of the public;
- k. the chair shall ensure an orderly hearing and has the authority to terminate the hearing if the discussion becomes unruly or unmanageable;
- l. any party to a hearing may appear in person or by representative.

ARTICLE VIII:

Fiscal Year, Board Financing, and Budget

The fiscal year begins on July 1 each year. The board is financed by Butte-Silver Bow General Fund appropriations or special levies, after approval of a budget by the Council of Commissioners in the way provided for other Butte-Silver Bow offices and departments. The board is also financed by available federal funds, and by state funds in accordance with MCA Section 50-2-111 (City-County Board Appropriations). Funds shall be accounted for in the same manner provided for other Butte-Silver Bow offices and departments. The board shall consider, approve and present for the consideration of the Council of Commissioners a preliminary budget on or before a date established by the Chief Executive. As required by appropriate municipal and county budget law, revisions, reductions, additions or changes to the preliminary budget may occur.

ARTICLE IX:

Health Officer

The health officer, under the direction and supervision of the Board of Health, shall:

- 1. act as secretary to board, shall prepare and deliver the agenda to board members before the meeting and give the required notices;
- 2. without limitation of what follows, exercise the powers and perform the duties conferred by law;
- 3. be responsible for the employment, and termination of employment, of all employees of the Butte-Silver Bow Health Department;

4. manage and supervise the environmental health director, the family health director, the population health director, and the administrative services manager, and oversee implementation of all Butte-Silver Bow Health Department programs;
5. present an orientation program for new board members, which shall include copies of Butte-Silver Bow Municipal Code Title 2, Chapter 2.28 (Administration and Personnel, Board of Health), the bylaws, a statement of mission, vision and core values, relevant policies and relevant laws.

ARTICLE X:

Employees Subject to County Personnel Manual

The health officer appointed by the Board of Health is an employee of Butte-Silver Bow, and shall be subject to all of the provisions set forth in Butte-Silver Bow's Personnel Policy and Procedure Manual. The Board of Health evaluates the health officer, communicating evaluation findings to the Chief Executive, who directs and supervises the health officer. The Board of Health shall be involved in the process associated with any and all personnel matters regarding the health officer. Butte-Silver Bow shall be responsible for any and all employment issues with respect to all other persons employed at the Health Department by Butte-Silver Bow, each of whom is subject to all of Butte-Silver Bow's personnel policies and procedures.

ARTICLE XI:

Legal Assistance

The Butte-Silver Bow County Attorney represents the Board of Health on matters relating to the functions, powers and duties of the board, MCA Section 50-2-115 (Legal Advisor to Local Boards).

ARTICLE XII:

Amendments to Bylaws

The bylaws may be altered, amended or repealed and new bylaws may be adopted by a majority of the board members present at any meeting, if at least two weeks written notice is given to each member of the board of the intention, at such meeting, to alter, amend or repeal or to adopt new bylaws.

ARTICLE XIII:

Approval of Bylaws

These bylaws were approved by the Butte-Silver Bow Board of Health on Feb. 4, 2015, and revised Jan. 13, 2016.

Danette Melvin, Chair
Butte-Silver Bow Board of Health