

COUNCIL BILL NO. 14-14

ORDINANCE NO. 14-14

1 AN ORDINANCE CREATING A NEW CHAPTER IN THE BUTTE-SILVER BOW
2 MUNICIPAL CODE TO BE NUMBERED CHAPTER 2.94 OF THE BUTTE-
3 SILVER BOW MUNICIPAL CODE (B-SB MC) AND ENTITLED "SUPERFUND
4 ADVISORY AND REDEVELOPMENT TRUST AUTHORITY"; PROVIDING FOR
5 APPOINTMENT OF AND QUALIFICATION OF MEMBERS; PROVIDING FOR
6 DUTIES AND RESPONSIBILITIES OF THE SUPERFUND ADVISORY AND
7 REDEVELOPMENT TRUST AUTHORITY; PROVIDING FOR A MEANS OF
8 FINANCING THE REDEVELOPMENT TRUST FUND; AND PROVIDING FOR AN
9 EFFECTIVE DATE HEREIN.

10 NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
11 COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW,
12 STATE OF MONTANA:

13 SECTION 1: New Chapter: There is hereby created a new
14 chapter of the Butte-Silver Bow Municipal
15 Code (B-SB MC) to be named "Superfund
16 Advisory and Redevelopment Trust Authority"
17 and numbered Chapter 2.94.

18 SECTION 2: New Section: There is hereby created a new
19 section of the Butte-Silver Bow Municipal
20 Code (B-SB MC) which shall read as follows:

21 "2.92.010 Purpose. The purpose of this
22 chapter is to provide for an appointed

1 Authority of citizens of the City and County
2 of Butte-Silver Bow (City County) to a)
3 interface with the Chief Executive and/or
4 his/her designated employees accountable for
5 coordinating all Superfund activities, to
6 comply with Section 4.02 (b) 2 of the Butte-
7 Silver Bow Municipal Charter; and b) to
8 direct, manage and distribute Redevelopment
9 Trust Funds in a manner that complies with
10 the provisions set forth in the "Allocation
11 and Settlement Agreement and Mutual Release
12 of Claims By and Between the City and County
13 of Butte-Silver Bow and Atlantic Richfield
14 Company" (Agreement), subsequent Addenda to
15 the Agreement, and this chapter."

16 SECTION 3: New Section: There is hereby created a new
17 section of the Butte-Silver Bow Municipal
18 Code (B-SB MC) which shall read as follows:

19 "2.94.020 Objective. The objective of
20 the Superfund Advisory and Redevelopment
21 Trust Authority (the Authority) is to advise
22 the local government in the long-term
23 improvement, redevelopment/re-use, cleanup,
24 treatment, management, monitoring and/or

1 maintenance of remediated and unremediated
2 Superfund and/or other environmentally
3 impacted properties/sites within the
4 entirety of the City and County of Butte-
5 Silver Bow; and, pursuant to the Allocation
6 Agreement, (located as part of the permanent
7 file records in BSB's Clerk and Recorder's
8 office), to plan, engage and promote
9 redevelopment and/or re-use of
10 land/properties (both remediated and
11 unremediated) within the Butte Priority
12 Soils Operable Unit (BPSOU) that are
13 affected from past mining impacts. In
14 compliance with the Allocation Agreement,
15 funds from the Redevelopment Trust shall be
16 directed to infrastructure projects,
17 maintenance and protection programs, and
18 general economic development activities that
19 serve the community interest and general
20 public welfare.

21 In the event that the city-county receives
22 or accrues other sources of monies,
23 properties, interests from Superfund/other
24 environmental settlements, agreements,

1 orders, decrees, grants, contracts or other,
2 not in conjunction or in relationship with
3 the Redevelopment Trust Funds outlined in
4 the Agreement and not explicitly directed,
5 allocated, awarded or ordered to a specific
6 action, project, requirement or obligation,
7 the Authority may advise the Chief Executive
8 and/or his/her designated employees and/or
9 agents on decisions pertaining to such,
10 funds."

11 New Section: There is hereby created a new section of the
12 Butte-Silver Bow Municipal Code (B-SB MC)
13 which shall read as follows:

14 SECTION 4: "2.94.030 Scope. The Authority shall have
15 the obligation to establish Operating
16 Procedures/By-Laws that allow for providing
17 review, advice, recommendations, comments,
18 and other considerations/input to the Chief
19 Executive and/or his/her designated
20 employees in regards to Superfund and/or
21 other environmental issues, decisions in
22 accordance with Section 4.02 (b) 2 of the
23 Butte-Silver Bow Municipal Charter; and for
24 approving, rejecting, evaluating expenditure

1 requests conforming to the use of
2 redevelopment trust funds to accomplish the
3 objectives of this chapter."

4 SECTION 5: New Section: There is hereby created a new
5 section of the Butte-Silver Bow Municipal
6 Code (B-SB MC) which shall read as follows:

7 "2.94.040 Definitions. The following
8 definitions are provided for the sole purpose
9 of proper interpretation and administration
10 of this Ordinance:

11 A. Allocation Agreement shall mean the
12 Allocation and Settlement Agreement and
13 Mutual Release of Claims By and Between
14 the City and County of Butte-Silver and
15 Atlantic Richfield Company, and all signed
16 and executed Addenda.

17 B. AR shall mean Atlantic Richfield Company,
18 a Delaware corporation, together with all
19 of its predecessors, successors (merged,
20 acquired or otherwise), subsidiaries and
21 assigns, including, but not limited to,
22 AERL.

23 C. BPSOU shall mean the area depicted on the
24 map attached as Exhibit "1" hereto as the

1 "Butte Priority Soils Operable Unit" and
2 any area added thereto by EPA.

3 D. BSB shall mean the local government of the
4 City and County of Butte-Silver Bow,
5 Montana, and any successors thereto,
6 including all officers, employees, agents,
7 representatives, boards, departments,
8 Advisory Boards, programs and authorities
9 thereof.

10 E. EPA shall mean the United States
11 Environmental Protection Agency and any
12 successor agency thereto.

13 F. MDEQ shall mean the State of Montana
14 Department of Environmental Quality and
15 any successor agency thereto.

16 G. NRDP shall mean the State of Montana-
17 Department of Justice Natural Resource
18 Damage Program and any successor agency
19 thereto.

20 H. Redevelopment Accounting Report shall mean
21 an Accounting report, in a form acceptable
22 to BSB and AR, of all amounts withdrawn by
23 BSB from the Redevelopment Trust Account
24 during the prior Fiscal Year.

1 I. Redevelopment Trust Account shall mean a
2 segregated and separate Account of BSB,
3 with a financial institution acceptable to
4 BSB and AR that is established pursuant to
5 the Agreement."

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7 SECTION 6: New Section: There is hereby created a new
8 section of the Butte-Silver Bow Municipal
9 Code (B-SB MC) which shall read as follows:

10 "2.94.050 Authority Established. In order to
11 carry out the purpose of this chapter, and in
12 compliance with the provisions of the
13 Agreement, a Superfund Advisory and
14 Redevelopment Trust Authority is created.
15 This Authority shall consist of seven voting
16 members and four ex-officio members, all
17 residents of the City-County, as follows:

18 A. A member shall have professional expertise
19 in the discipline of Land Use, nominated by
20 the BSB Planning Board and confirmed by the
21 BSB Council of Commissioners;

22 B. A member shall have professional expertise
23 in the discipline of Medicine or Health
24 Science, nominated by the BSB Health Board

1 and confirmed by the BSB Council of
2 Commissioners;

3 C. A member shall have professional expertise
4 in the discipline of Cultural Heritage or
5 Historic Preservation, nominated by the BSB
6 Historic Preservation Commission and
7 confirmed by the BSB Council of
8 Commissioners;

9 D. The remaining four members shall be At-
10 Large from the community, nominated by the
11 Chief Executive and confirmed by the BSB
12 Council of Commissioners. To the extent
13 practicable, these at-large members should
14 have demonstrated knowledge or professional
15 experience or training in one or more of
16 the following disciplines, including but
17 not limited to finance, investment or
18 accounting; sciences (physical, biological)
19 or engineering; parks and recreation;
20 education; local business
21 management/ownership.

22 E. Four Ex-Officio members, including the BSB
23 Chief Executive, the BSB County Attorney, a
24 member of the BSB Council of Commissioners,

1 and a representative of AR, should AR
2 choose to exercise this right."

3 SECTION 7: New Section: There is hereby created a new
4 section of the Butte-Silver Bow Municipal
5 Code (B-SB MC) which shall read as follows:

6 "2.94.060 Appointment - Terms - Vacancy.

7 A. Terms of office for Authority members
8 shall be staggered and shall be three
9 years in duration. For the initial term,
10 upon enactment of this ordinance, two
11 members shall be appointed for one year,
12 three members shall be appointed for two
13 years and two members shall be appointed
14 for three years. The number of
15 consecutive terms served by any one member
16 will determined by the Authority upon
17 adoption of its By-Laws.

18 B. Vacancies on the Authority shall be filed
19 within sixty days by appointment by the
20 Chief Executive and are subject to the
21 confirmation of the Council of
22 Commissioners for the unexpired portion of
23 the term."

1 SECTION 8: New Section: There is hereby created a new
2 section of the Butte-Silver Bow Municipal
3 Code (B-SB MC) which shall read as follows:

4 "2.94.070 Powers and Duties.

5 A. The Authority shall advise the Chief
6 Executive and/or his/her designated
7 employees on Superfund and
8 environmental issues; and review,
9 consider, approve or deny funding
10 requests and allocate resources for
11 projects proposed by the City-County or
12 other entities for the purposes set
13 forth in the Agreement and in this
14 chapter.

15 B. Develop by-laws to govern its operating
16 procedures and facilitate the
17 implementation of this chapter.

18 C. Encourage public education and
19 participation in Superfund and/or other
20 environmental issues and cooperate with
21 local, state, federal and other
22 agencies, boards, committees, entities
23 and parties, including but not limited

1 to BSB, MDEQ, NRDP, EPA, AR in these
2 regards.

3 D. The Authority shall provide and submit
4 an annual report to the Chief
5 Executive, the Council of
6 Commissioners, and AR, to include major
7 activity, projects and a Redevelopment
8 Trust Accounting Report no later than
9 September 15 (fifteenth) of each year;

10 E. Shall keep, or cause to be kept, proper
11 minutes of meetings and books of record
12 and expenditures segregated from all
13 other records and accounts of the City-
14 County, in which complete and correct
15 entries shall be made of all
16 transactions relating to the
17 Redevelopment Trust.

18 F. Undertake any actions necessary to
19 assure compliance with the terms of the
20 Agreement for any expenditures of the
21 Trust."

22 Section 10: New Section: There is hereby created a new
23 section of the Butte-Silver Bow Municipal
24 Code (B-SB MC) which shall read as follows:

1 "2.94.090 Method of Financing. The Superfund
2 Advisory and Redevelopment Trust Authority
3 is authorized to allocate those funds
4 deposited into the Redevelopment Trust
5 Account, together with accrued interest and
6 income earned thereon to Butte-Silver Bow
7 for the purpose of fulfilling the objectives
8 outlined in this chapter. Funds shall be
9 accounted for in the same manner provided
10 for other Butte-Silver Bow offices and
11 departments."

12 SECTION 11: New Section: There is hereby created a new
13 section of the Butte-Silver Bow Municipal
14 Code (B-SB MC) which shall read as follows:

15 "2.94.100 Meetings.

16 A. The Superfund Advisory and Redevelopment
17 Trust Authority shall conduct a minimum of
18 one regularly scheduled meeting each month
19 to carry out the provisions of this
20 chapter, except that the chairperson, with
21 the consent of the Chief Executive, may
22 cancel any meeting if there are no matters
23 to be considered.

1 B. Special meetings of the Authority may be
2 called by the chairperson, the Chief
3 Executive or by four members of the
4 Authority when such meetings are necessary
5 to carry out the provisions of this
6 chapter.

7 C. All meetings shall be held in public and
8 in accordance with the Montana State Open
9 Meeting law. All written or taped minutes,
10 reports and Authority decisions shall be
11 available to the public."

12 SECTION 12: New Section: There is hereby created a new
13 section of the Butte-Silver Bow Municipal
14 Code (B-SB MC) which shall read as follows:

15 "2.94.110 Severability Clause. If any
16 section, subsection, sentence, clause,
17 phrase or word of this Ordinance is, for any
18 reason, held to be invalid or
19 unconstitutional, such decision shall not
20 affect the validity of the remaining
21 portions of this chapter, and the remainder
22 of the chapter will remain in force and
23 effect."

1 SECTION 13: Effective Date: This Ordinance shall be in
2 full force and effect from and after thirty
3 (30) days after passage and approval.

4 PASSED this _____ day of _____, 2014.

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CINDI SHAW
CHAIRMAN OF THE COUNCIL OF COMMISSIONERS

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10 APPROVED this _____ day of _____, 2014.

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MATTHEW S. VINCENT
CHIEF EXECUTIVE

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ATTEST:

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SALLY HOLLIS
CLERK AND RECORDER

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APPROVED AS TO FORM:

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EILEEN JOYCE
COUNTY ATTORNEY

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WILLIAM O. ANDERSEN
CHAIRMAN, JUDICIARY COMMITTEE

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