

1 **ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**

2 **RESOLUTION NO. 2022-1**

3 **DETERMINING REASONABLE NOTICE OF PUBLIC MEETINGS OF THE**
4 **ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD.**

5 **WHEREAS**, the Albuquerque-Bernalillo County Air Quality Control Board met in open
6 session during a regular meeting in the basement hearing room of the Plaza del Sol building at
7 600 Second Street NW, Albuquerque, NM 87102 on December 14, 2022, as required by law and
8 with notice as specified in Albuquerque-Bernalillo County Air Quality Control Board Resolution
9 No. #2021-1; and

10 **WHEREAS**, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-
11 15-1 to -4) states, “All meetings of a quorum of members of any board, commission,
12 administrative adjudicatory body or other policymaking body of any . . . agency or authority of
13 any county, municipality, district or political subdivision, held for the purpose of formulating
14 public policy, including the development of personnel policy, rules, regulations or ordinances,
15 discussing public business or taking any action within the authority of or the delegated authority
16 of any board, commission or other policymaking body are declared to be public meetings open to
17 the public at all times, except as otherwise provided in the constitution of New Mexico or the
18 Open Meetings Act;” and

19 **WHEREAS**, the Albuquerque-Bernalillo County Air Quality Control Board is a public
20 board subject to the provisions of Open Meetings Act; and

21 **WHEREAS**, under Section 10-15-1(D) of the Open Meetings Act, any meeting(s) at
22 which the discussion or adoption of any proposed resolution, rule, regulation or formal action
23 occurs shall be held only after reasonable notice to the public; and

24 **WHEREAS**, Section 10-15-1(D) of the Open Meetings Act requires the Albuquerque-

1 Bernalillo County Air Quality Control Board to determine at least annually what constitutes
2 reasonable notice of its public meetings; and

3 **WHEREAS**, the *Public Boards, Commissions and Committees Ordinance*, Revised
4 Ordinances of Albuquerque 1994 (“ROA 1994”), Section 2-1-4(B)(2) requires that: “Reasonable
5 notice shall be given to the public prior to any meeting of any public board, commission or
6 committee. At least once a year, each public board, commission or committee shall determine
7 what is reasonable notice to the public; provided that in no event shall notice be less than the
8 notice required for [Albuquerque City Council] meetings.”; and

9 **WHEREAS**, the *Joint Air Quality Control Board Ordinance*, ROA 1994, Section 9-5-1-
10 3(C), and Bernalillo County Code, Section 30-32(c), require that: “The Board shall meet in
11 public facilities with public seating available. The Board shall meet monthly if a quorum is
12 available unless a meeting is unnecessary or delayed for good reason. The Board shall hold a
13 minimum of six monthly meetings a year. Special additional meetings may be held as needed.
14 Notice of time, place and agenda of meetings shall be published according to the requirements of
15 law. Meetings, work sessions and hearings shall be open to the public.”; and

16 **WHEREAS**, declarations by the Governor and City Mayor of a state of emergency due
17 to the spread of an infectious disease, due to the spread of chemical, biological, or radiological
18 hazards, or due to some other comparable disaster or emergency have previously and may in the
19 future impact the requirements for Board meetings and hearings, and if postponing one or more
20 items of business until the conclusion of the state of emergency would be inconsistent with the
21 proper and efficient operation of the Board, the Board may hold a meeting or hearing in a
22 manner designed to ensure the health and safety of members of the Board and the public while
23 also adhering to the purposes of the Open Meetings Act, as set forth in this Resolution or

1 otherwise approved by a majority vote of a quorum of the Board taken during open session; and

2 **WHEREAS**, this Resolution shall control unless otherwise preempted by applicable law.

3 **NOW, THEREFORE, BE IT RESOLVED BY THE ALBUQUERQUE-BERNALILLO**
4 **COUNTY AIR QUALITY CONTROL BOARD THAT:**

5 **Section 1. Location of Meetings.** Except as provided in Section 11, below, meetings of
6 the Albuquerque-Bernalillo County Air Quality Control Board shall normally be held in the
7 basement hearing room of the Plaza del Sol building located at 600 Second Street NW,
8 Albuquerque, New Mexico 87102.

9 **Section 2. Regular Meetings.** Regular meetings will be held each month on the date
10 specified by Albuquerque-Bernalillo County Air Quality Control Board Resolution No. 2022-2,
11 which is generally the second Wednesday of each month at 5:30 p.m.

12 **Section 3. Special Meetings.** Special meetings may be called by the Chair of the
13 Albuquerque-Bernalillo County Air Quality Control Board or a majority of the members upon
14 seventy-two (72) hours' notice.

15 **Section 4. Emergency Meetings.** Emergency meetings may be called for “unforeseen
16 circumstances that, if not addressed immediately by the [Albuquerque-Bernalillo County Air
17 Quality Control Board] will likely result in injury or damage to persons or property or substantial
18 financial loss to the [Albuquerque-Bernalillo County Air Quality Control Board].” NMSA 1978,
19 § 10-15-1(F). The Albuquerque-Bernalillo County Air Quality Control Board will avoid
20 emergency meetings whenever possible. Emergency meetings may be called by the Chair of the
21 Albuquerque-Bernalillo County Air Quality Control Board or a majority of the members upon
22 twenty-four (24) hours' prior notice, unless threat of personal injury or property damage requires
23 less notice. In accordance with NMSA 1978, § 10-15-1(F), “[w]ithin ten days of taking action on

1 an emergency matter, the [Albuquerque-Bernalillo County Air Quality Control Board] shall
2 report to the New Mexico Attorney General’s Office the action taken and the circumstances
3 creating the emergency.”

4 **Section 5. Notice Requirements for Meetings.** For the purposes of meetings described
5 in Sections 2, 3 and 4 of this Resolution, notice requirements are met if notice of the date, time,
6 location and a copy of the agenda are provided at least seventy-two (72) hours before the
7 meeting for regular and special meetings described in Sections 2 and 3, respectively, and at least
8 twenty-four (24) hours before the meeting for emergency meetings described in Section 4, unless
9 threat of personal injury or property damage requires less notice. Notice and the agenda shall be
10 provided on the Albuquerque-Bernalillo County Air Quality Control Board website maintained
11 by the City of Albuquerque Environmental Health Department at
12 <https://www.cabq.gov/airquality/air-quality-control-board> and sent to the Albuquerque-
13 Bernalillo County Air Quality Control Board electronic mailing list maintained by the
14 Albuquerque-Bernalillo County Air Quality Control Board Liaison. Notice and the agenda may
15 also be obtained from the Albuquerque-Bernalillo County Air Quality Control Board Liaison,
16 whose office is located at One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, New
17 Mexico 87102 and can be contacted at (505) 768-2738 or airboard@cabq.gov. The Albuquerque-
18 Bernalillo County Air Quality Control Board Liaison shall also send notice to those broadcast
19 stations licensed by the Federal Communications Commission and newspapers of general
20 circulation in Albuquerque that have made a written request for notice of public meetings.

21 **Section 6. Notice Requirements for Hearings.** Notice requirements for hearings shall
22 be in accordance with the New Mexico State Air Quality Control Act, local air quality
23 ordinances, and Albuquerque-Bernalillo County Air Quality Control Board regulations

1 (“Applicable Law”). The Albuquerque-Bernalillo County Air Quality Control Board Liaison will
2 provide written notice of hearings to newspapers of general circulation in Albuquerque and
3 Bernalillo County in accordance with Applicable Law. The Albuquerque-Bernalillo County Air
4 Quality Control Board Liaison will also post notice of hearings on the Albuquerque-Bernalillo
5 County Air Quality Control Board website and send notice to the Albuquerque-Bernalillo
6 County Air Quality Control Board electronic mailing list. Notice of a hearing of the
7 Albuquerque-Bernalillo County Air Board Quality Control may be combined with the notice of a
8 meeting.

9 **Section 7. Cancellations and Changes of Venue and Meeting Time.** The Chair of the
10 Albuquerque-Bernalillo County Air Quality Control Board or a majority of the members may
11 cancel or change meeting dates, times and locations. Cancellations and changes to meeting dates,
12 times and locations may be announced in advance at a meeting of the Albuquerque-Bernalillo
13 County Air Quality Control Board or by posting notice in accordance with the notice
14 requirements of this Resolution for the specific type of meeting. In the event a meeting is
15 canceled following the posting of the agenda, the Albuquerque-Bernalillo County Air Quality
16 Control Board will give at least twenty-four (24) hours' notice of such cancellation, unless
17 otherwise impracticable, by posting notice of the cancellation on the Albuquerque-Bernalillo
18 County Air Quality Control Board website and sending notice to the Albuquerque-Bernalillo
19 County Air Quality Control Board electronic mailing list.

20 **Section 8. Accessibility Notice.** In addition to the information specified above, all
21 notices and agendas shall include the following Notice to Persons with Disabilities or Special
22 Needs, or similar but revised language as determined by the Albuquerque-Bernalillo County Air
23 Quality Control Board Liaison:

1 “NOTICE TO PERSONS WITH DISABILITIES OR SPECIAL NEEDS: The
2 Albuquerque-Bernalillo County Air Quality Control Board will take reasonable
3 measures to provide access to services to individuals with limited ability to speak,
4 write, or understand English or to those with disabilities at no cost to the
5 requestor. If you would like this [notice or agenda] translated into a different
6 language, please go to <https://www.cabq.gov/airquality/air-quality-control-board>
7 and use the Translate Our Site feature at the top of the page, or contact the
8 Albuquerque-Bernalillo County Air Quality Control Board Liaison for assistance
9 at 505-768-2738, airboard@cabq.gov, or City of Albuquerque, Environmental
10 Health Department, Air Quality Program, One Civic Plaza NW, 3rd Floor, Room
11 3023, Albuquerque, NM 87102.

12 If you have a disability or require special assistance to participate in this [meeting
13 or hearing], including interpretation, please contact the Albuquerque-Bernalillo
14 County Air Quality Control Board Liaison as soon as possible but no later than
15 seventy-two (72) hours before the [meeting or hearing]. Those in need of hearing
16 assistance may call 711.”

17 **Section 9. Notice of Nondiscrimination.** In addition to the information specified above,
18 all notices and agendas shall include the following Notice of Nondiscrimination, or similar but
19 revised language as determined by the Albuquerque-Bernalillo County Air Quality Control
20 Board Liaison:

21 “The City of Albuquerque, the City of Albuquerque Environmental Health
22 Department, and the Albuquerque-Bernalillo County Air Quality Control Board
23 do not discriminate on the basis of race, color, national origin, age, disability,

1 religion, ancestry, sexual orientation, gender identity, spousal affiliation, or sex. If
2 you believe you have been discriminated against, you may submit a complaint at
3 <http://www.cabq.gov/civilrights/filing-a-discrimination-complaint>. You may also
4 contact the Office of Civil Rights at (505) 768-4595 or civilrights@cabq.gov.”

5 **Section 10. Closed Meetings.** The Albuquerque-Bernalillo County Air Quality Control
6 Board may close a meeting to the public only if the subject matter of such discussion or action is
7 exempted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings
8 Act. If any portion of an open meeting is closed, or if a separate closed meeting is called outside
9 of an open meeting, such closure shall be in accordance with Section 10-15-1(I) of the Open
10 Meetings Act and the requirements of this Resolution. Only those subjects specified in the
11 motion or notice for closure may be discussed in the closed session or meeting. Following
12 completion of any closed session or meeting, the minutes shall be in accordance with Section 10-
13 15-1(J) of the Open Meetings Act. Except as provided in Section 10-15-1(H) of the Open
14 Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by
15 vote of the Albuquerque-Bernalillo County Air Quality Control Board in an open, public
16 meeting.

17 **Section 11. Virtual and Hybrid Meetings.** In-person meetings held in accordance with
18 Section 1 may be conducted in a hybrid format allowing for virtual attendance by video
19 conferencing, telephone, or similar technology. In the event that meetings with in-person,
20 physical attendance are not possible or advisable due to a public health emergency or otherwise,
21 the Albuquerque-Bernalillo County Air Quality Control Board may hold virtual meetings where
22 attendance is solely by video conferencing, telephone, or similar technology while also adhering
23 to the purposes of the Open Meetings Act.

1 **a) Virtual Attendance by Board Members.** Members of the Albuquerque-Bernalillo
2 County Air Quality Control Board “may participate in a meeting . . . by conference
3 telephone or other similar communications equipment when it is otherwise difficult or
4 impossible for the member to attend in person, provided that each member participating”
5 virtually can be identified when speaking, all participants are able to hear and
6 communicate clearly with one another, and the members of the public in attendance are
7 able to hear any member who speaks during the meeting, in accordance with Section 10-
8 15-1(C) of the Open Meetings Act, unless otherwise prohibited by applicable law.

9 **b) Virtual and Hybrid Meeting Notice.** In addition to the information specified above, all
10 notices and agendas will indicate whether a meeting has a virtual attendance option.
11 Notices and agendas for meetings with a virtual attendance option shall provide
12 information to the public on how the meeting may be accessed through video
13 conferencing, telephone, or similar technology.

14 **c) Virtual and Hybrid Meeting Special Procedures.** At any virtual meeting where
15 attendance is solely by video conferencing, telephone, or similar technology, or any
16 hybrid meeting where one or more members of the Albuquerque-Bernalillo County Air
17 Quality Control Board attend virtually, all votes shall be cast through a roll-call vote. The
18 Chair shall suspend all discussion in the event that the audio is interrupted or becomes
19 unintelligible. All meeting documents, except those which are exempt from disclosure as
20 a public record, shall be available on the Albuquerque-Bernalillo County Air Quality
21 Control Board’s website before and during the meeting for public access and review, or
22 shall be available during the meeting for downloading through whatever video
23 conferencing service may be used for the meeting. The Board shall make an audio

1 recording of any virtual meeting and, within five business days of the meeting, post the
2 recording on the Board's website for a period of not less than thirty days. The Board shall
3 maintain a copy of the recording in accordance with public record laws.

4

1 PASSED AND ADOPTED THIS 14th DAY OF December, 2022
2 BY A VOTE OF _____ FOR, AND _____ AGAINST.

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Absent:

10 _____
11 Ms. Lauren Meiklejohn, Chair
12 Albuquerque-Bernalillo County
13 Air Quality Control Board

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Attest:

21 _____
22 Ken Miller, Acting Board Secretary
Environmental Health Department