

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

2 **RESOLUTION NO. 2023-1**

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 (“Air
6 Board”) met in open session during a regular meeting in the basement hearing room of the Plaza
7 del Sol building at 600 Second Street NW, Albuquerque, NM 87102 on November 8th, 2023, as
8 required by law and with notice as specified in Albuquerque-Bernalillo County Air Quality
9 Control Board Resolution No. #2022-1; 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 Air Board is a public board subject to the provisions of Open Meetings
20 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 Air Board to

1 determine at least annually what constitutes reasonable notice of its public meetings; and

2 **WHEREAS**, the *Public Boards, Commissions and Committees Ordinance*, Revised

3 Ordinances of Albuquerque 1994 (“ROA 1994”), Section 2-6-1-4(B)(2) requires that:

4 “Reasonable notice shall be given to the public prior to any meeting of any public board,
5 commission or committee. At least once a year, each public board, commission or committee
6 shall determine what is reasonable notice to the public; provided that in no event shall notice be
7 less than the notice required for [Albuquerque City Council] meetings.”; and

8 **WHEREAS**, the *Joint Air Quality Control Board Ordinance*, ROA 1994, Section 9-5-1-

9 3(C), and Bernalillo County Code, Section 30-32(c), require that: “The Board shall meet in

10 public facilities with public seating available. The Board shall meet monthly if a quorum is

11 available unless a meeting is unnecessary or delayed for good reason. The Board shall hold a

12 minimum of six monthly meetings a year. Special additional meetings may be held as needed.

13 Notice of time, place and agenda of meetings shall be published according to the requirements of

14 law. Meetings, work sessions and hearings shall be open to the public.”; and

15 **WHEREAS**, the *Public Boards, Commissions and Committees Ordinance*, ROA 1994,

16 Section 2-6-1-4(B)(1), as amended in March 2023 by the Albuquerque City Council, states: “A

17 meeting of a public board . . . may be held remotely or hybrid-in person with a remote option.

18 Any meeting held remotely or hybrid with a remote option is subject to the requirements of the

19 Open Meetings Act. Any hybrid in-person meeting with remote option shall also be subject to

20 subparagraph (a) of this provision of code” which states “[w]hen a meeting of any public board,

21 commission or committee is held in person, the meeting shall be held in a city owned facility.”;

22 and

23 **WHEREAS**, the *Public Boards, Commissions and Committees Ordinance*, ROA 1994,

1 Section 2-6-1-4(B)(5), as amended in March 2023 by the Albuquerque City Council, states: “A
2 member of a public board . . . may participate in a meeting of the public board, commission or
3 committee by means of a conference telephone or other similar communications equipment when
4 it is otherwise difficult or impossible for the member to attend the meeting in person, provided
5 that each member participating by conference telephone can be identified when speaking, all
6 participants are able to hear each other at the same time, members of the public attending the
7 meeting are able to hear any member of the public body who speaks during the meeting and a
8 quorum of the public board . . . is physically *or remotely* present at the meeting.” (emphasis
9 added); and

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

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

13 **Section 1. Location of Meetings.** Except as provided in Section 11, below, meetings of
14 the Air Board shall normally be held in the basement hearing room of the Plaza del Sol building
15 located at 600 Second Street NW, Albuquerque, New Mexico 87102.

16 **Section 2. Regular Meetings.** Regular meetings will be held each month on the date
17 specified by Albuquerque-Bernalillo County Air Quality Control Board Resolution No. 2023-2,
18 which is generally the second Wednesday of each month at 5:30 p.m.

19 **Section 3. Special Meetings.** Special meetings may be called by the Chair of the Air
20 Board or a majority of the members upon seventy-two (72) hours’ notice.

21 **Section 4. Emergency Meetings.** Emergency meetings may be called for “unforeseen
22 circumstances that, if not addressed immediately by the [Air Board] will likely result in injury or
23 damage to persons or property or substantial financial loss to the [Air Board].” NMSA 1978, §

1 10-15-1(F). The Air Board will avoid emergency meetings whenever possible. Emergency
2 meetings may be called by the Chair of the Air Board or a majority of the members upon twenty-
3 four (24) hours' prior notice, unless threat of personal injury or property damage requires less
4 notice. In accordance with Section 10-15-1(F) of the Open Meetings Act, “[w]ithin ten days of
5 taking action on an emergency matter, the [Air Board] shall report to the New Mexico Attorney
6 General’s Office the action taken and the circumstances creating the emergency.”

7 **Section 5. Notice Requirements for Meetings.** For the purposes of meetings described
8 in Sections 2, 3 and 4 of this Resolution 2023-1, notice requirements are met if notice of the date,
9 time, location and a copy of the agenda are provided at least seventy-two (72) hours before the
10 meeting for regular and special meetings described in Sections 2 and 3, respectively, and at least
11 twenty-four (24) hours before the meeting for emergency meetings described in Section 4 unless
12 threat of personal injury or property damage requires less notice for the emergency meeting.
13 Notice and the agenda shall be provided on the Air Board website maintained by the City of
14 Albuquerque Environmental Health Department at [https://www.cabq.gov/airquality/air-quality-](https://www.cabq.gov/airquality/air-quality-control-board)
15 [control-board](https://www.cabq.gov/airquality/air-quality-control-board) and sent to the Air Board electronic mailing list maintained by the Air Board
16 Liaison. Notice and the agenda may also be obtained from the Air Board Liaison, whose office is
17 located at One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, New Mexico 87102 and
18 can be contacted at (505) 768-1915 or airboard@cabq.gov. The Air Board Liaison shall also
19 send notice to those broadcast stations licensed by the Federal Communications Commission and
20 newspapers of general circulation in Albuquerque that have made a written request for notice of
21 public meetings.

22 **Section 6. Notice Requirements for Hearings.** Notice requirements for hearings shall
23 be in accordance with the New Mexico State Air Quality Control Act, local air quality

1 ordinances, and Air Board regulations (“Applicable Law”). The Air Board Liaison will provide
2 the notice of hearings to newspapers of general circulation in Albuquerque and Bernalillo
3 County in accordance with Applicable Law. The Air Board Liaison will also post the notice of
4 hearings on the Air Board website and send the notice to the Air Board electronic mailing list in
5 accordance with Applicable Law.

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

14 **Section 8. Accessibility Notice.** In addition to the information specified above, all
15 notices and agendas shall include the following Notice to Persons with Disabilities or Special
16 Needs, or similar but revised language as determined by the Air Board Liaison:

17 “NOTICE TO PERSONS WITH DISABILITIES OR SPECIAL NEEDS: The
18 Albuquerque-Bernalillo County Air Quality Control Board will take reasonable
19 measures to provide access to services to individuals with limited ability to speak,
20 write, or understand English or to those with disabilities at no cost to the
21 requestor. If you would like this [notice or agenda] translated into a different
22 language, please go to <https://www.cabq.gov/airquality/air-quality-control-board>
23 and use the Translate Our Site feature at the top of the page, or contact the

1 Albuquerque-Bernalillo County Air Quality Control Board Liaison for assistance
2 at 505-768-1915, airboard@cabq.gov, or City of Albuquerque, Environmental
3 Health Department, Air Quality Program, One Civic Plaza NW, 3rd Floor, Room
4 3023, Albuquerque, NM 87102.

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

10 **Section 9. Notice of Nondiscrimination.** In addition to the information specified above,
11 all notices and agendas shall include the following Notice of Nondiscrimination, or similar but
12 revised language as determined by the Air Board Liaison:

13 “The City of Albuquerque, the City of Albuquerque Environmental Health
14 Department, and the Albuquerque-Bernalillo County Air Quality Control Board
15 do not discriminate on the basis of race, color, national origin, age, disability,
16 religion, ancestry, sexual orientation, gender identity, spousal affiliation, or sex. If
17 you believe you have been discriminated against, you may contact the [NAME] at
18 [PHONE] or[EMAIL].”

19 **Section 10. Closed Meetings.** The Air Board may close a meeting to the public only if
20 the subject matter of such discussion or action is exempted from the open meeting requirement
21 under Section 10-15-1(H) of the Open Meetings Act. If any portion of an open meeting is closed,
22 or if a separate closed meeting is called outside of an open meeting, such closure shall be in
23 accordance with Section 10-15-1(I) of the Open Meetings Act and the requirements of this

1 Resolution 2023-1. Only those subjects specified in the motion or notice for closure may be
2 discussed in the closed session or meeting. Following completion of any closed session or
3 meeting, the minutes shall be in accordance with Section 10-15-1(J) of the Open Meetings Act.
4 Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result
5 of discussions in a closed meeting shall be made by vote of the Air Board in an open, public
6 meeting.

7 **Section 11. Virtual and Hybrid Meetings.** In-person meetings held in accordance with
8 Section 1 may be conducted in a hybrid format allowing for virtual attendance by video
9 conferencing, telephone, or similar technology, or may be conducted in a virtual format where
10 attendance is solely by video conferencing, telephone, or similar technology, subject to the
11 requirements of the Open Meetings Act.

12 **a) Virtual Attendance by Board Members.** Members of the Air Board
13 “may participate in a meeting . . . by conference telephone or other similar communications
14 equipment when it is *otherwise difficult or impossible* for the member to attend in person,
15 provided that each member participating” can be identified when speaking, all participants are
16 able to hear and communicate clearly with one another, and the members of the public in
17 attendance are able to hear any member who speaks during the meeting, in accordance with
18 Section 10-15-1(C) of the Open Meetings Act and the *Public Boards, Commissions and*
19 *Committees Ordinance*, ROA 1994, Section 2-6-1-4(B)(5), unless otherwise prohibited by
20 applicable law.

21 **b) Virtual and Hybrid Meeting Notice.** In addition to the information
22 specified above, all notices and agendas will indicate whether a meeting has a virtual attendance
23 option. Notices and agendas for meetings with a virtual attendance option shall provide

1 information to the public on how the meeting may be accessed through video conferencing,
2 telephone, or similar technology.

3 **Virtual and Hybrid Meeting Special Procedures.** At any virtual meeting where attendance is
4 solely by video conferencing, telephone, or similar technology, or any hybrid meeting where one
5 or more members of the Air Board attend virtually, all votes shall be cast through a roll-call vote.
6 The Chair shall suspend all discussion in the event that the audio is interrupted or becomes
7 unintelligible. All meeting documents, except those which are exempt from disclosure as a
8 public record, shall be available on the Air Board’s website before and during the meeting for
9 public access and review, or shall be available during the meeting for downloading through
10 whatever video conferencing service may be used for the meeting. The Board shall make an
11 audio recording of any virtual meeting and, within five business days of the meeting, post the
12 recording on the Board’s website for a period of not less than thirty days. The Board shall
13 maintain a copy of the recording in accordance with public record laws.

14

15 PASSED AND ADOPTED THIS ____ DAY OF _____, 2023

16 BY A VOTE OF ____ FOR, AND ____ AGAINST.

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18 Absent:

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24 _____
Ms. Maxine Paul, Chair
25 Albuquerque-Bernalillo County
26 Air Quality Control Board

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29 Attest:

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Anita SdeArmijo, Acting Board Secretary
Environmental Health Department

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