CITY OF ALBUQUERQUE

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May 18, 2012

I, Amy B. Bailey, City Clerk for the City of Albuquerque, New Mexico, a Municipal Corporation, hereby certify that the attached; Chapter 9: HEALTH, SAFTEY AND SANATATION; Article 5: AIR QUALITY AND ENVIRONMENTAL HEALTH CONTROL; is a true and correct copy of the original document which has been maintained by the office of the City Clerk and of which I am the custodian.

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PART 1: AIR QUALITY CONTROL BOARD

§ 9-5-1-1 SHORT TITLE.

Sections 9-5-1-1 et seq. may be cited as the "Joint Air Quality Control Board Ordinance."
('74 Code, § 6-16-1) (Ord. 13-1975; Am. Ord. 65-1993)

§ 9-5-1-2 DEFINITIONS.

As provided in the New Mexico Air Quality Control Act, Sections 74-2-1 through 74-2-17 NMSA 1978 (hereinafter referred to as the "Air Quality Control Act"), the following definitions shall apply to terms used in §§ 9-5-1-1 et seq.

AIR CONTAMINANT. Any substance, including but not limited to any particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapor, microorganisms, radioactive material, any combination thereof or any decay or reaction product thereof.

AIR POLLUTION. The emission, except emission that occurs in nature, into the outdoor atmosphere of one or more air contaminants in quantities and of a duration that may with reasonable probability injure human health or animal or plant life or as may unreasonably interfere with the public welfare, visibility or the reasonable use of property.

BOARD. The Albuquerque-Bernalillo County Air Quality Control Board created by §§ 9-5-1-1 et seq.

DEPARTMENT. The administrative agency of the Albuquerque-Bernalillo County Air Quality Control Board.

DIRECTOR. The administrative head of the Department or his or her authorized representative.

EMISSION LIMITATION and ***EMISSION STANDARD.*** A requirement established by the Board, the Department, or pursuant to the federal Act that limits the quantity, rate or concentration, or combination thereof, of emissions of air contaminants on a continuous basis, including any requirements relating to the operation or maintenance of a source to assure continuous reduction.

ENVIRONMENT DEPARTMENT. The Environment Department of the state.

FEDERAL ACT. The Federal Clean Air Act, 42 U.S.C. 7401 through 7642, its subsequent amendments and successor provisions.

FEDERAL STANDARD OF PERFORMANCE. Any standard of performance, emission limitation or emission standard adopted pursuant to 42 U.S.C. Section 7411 or 7412.

HAZARDOUS AIR POLLUTANT. An air contaminant that has been classified as a hazardous air pollutant pursuant to the Federal Act.

MANDATORY CLASS I AREA. Any of the following areas in the state of New Mexico that were in existence on August 7, 1977:

(1) National wilderness areas that exceed 5,000 acres in size; and

(2) National parks that exceed 6,000 acres in size.

MAYOR. The Mayor or his or her authorized representative.

MODIFICATION. Any physical change in, or change in the method of operation of a source that results in an increase in the Potential Emission Rate of any Regulated Air Contaminant emitted by the source or that results in the emission of any Regulated Air Contaminant not previously emitted, but does not include:

(1) A change in ownership of the source;

(2) Routine maintenance, repair or replacement;

(3) Installation of air pollution control equipment and all related process equipment and materials necessary for its operation, undertaken for the purpose of complying with regulations adopted by the board or pursuant to the Federal Act; or

(4) Unless previously limited by enforceable permit conditions:

(a) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) An increase in the hours of operation; or

(B) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.
(Ord. 21-2008) Penalty, see § 9-5-5-99

§ 9-5-5-98 VIOLATIONS.

It is unlawful for a person who owns, manages, operates or otherwise controls the use of premises subject to regulation under the Albuquerque Clean Indoor Air Ordinance to violate its provisions. The owner, manager or operator of premises subject to regulation under the Albuquerque Clean Indoor Air Ordinance shall not be subject to a penalty if a person on the premises is in violation of the Albuquerque Clean Indoor Air Ordinance as long as the owner, manager or operator has posted signs, implemented the appropriate policy and informed the person that the person is in violation of the Albuquerque Clean Indoor Air Ordinance.
(Ord. 21-2008) Penalty, see § 9-5-5-99

§ 9-5-5-99 PENALTY.

A person 18 years of age or older who violates any provision of the Albuquerque Clean Indoor Air Ordinance shall be guilty of a petty misdemeanor and is subject to:

(A) A fine not to exceed $100 for the first violation of that ordinance;

(B) A fine not to exceed $200 for the second violation of that ordinance within any consecutive 12-month period of the first violation; and

(C) A fine not to exceed $500 for the third and each subsequent violation of that ordinance within any consecutive 12-month period of a previous violation.
(Ord. 21-2008)

PART 6: METROPOLITAN ENVIRONMENTAL HEALTH ADVISORY BOARD

§ 9-5-6-1 PURPOSE.

A Metropolitan Environmental Health Advisory Board is established for the following purposes to:

(A) Keep itself informed of community environmental health needs and to serve as a forum for public discussion;

(B) Recommend to the Mayor and County Manager, policies for program improvement;

(C) Advise the Environmental Health Department regarding environmental health needs and programs;

(D) Hold hearings and make recommendations on appeals from orders of the Environmental Health Department as provided by other ordinances;

(E) Perform the functions of the Albuquerque-Bernalillo County Air Quality Control Board as provided in the City and County Air Quality Control Board Regulations, §§ 6-5-1-1 et seq.

(F) Advise the Environmental Planning Commission regarding air and water quality matters.
('74 Code, § 6-17-1) (Ord. 12-1975; Am. Ord. 72-1976)

§ 9-5-6-2 ORGANIZATION AND MEMBERSHIP.

(A) The Metropolitan Environmental Health Advisory Board will consist of seven members, three of whom shall be appointed by the County Commission and four of whom shall be appointed by the Mayor.

(B) Members shall serve for three-year terms, except that three of the initial terms shall be for two-year terms. The three members to serve an initial term of two years shall be those members previously determined by lot in accordance with the original city and county ordinances creating the Environmental Health Advisory Board.

(C) In years in which three terms expire, two of the vacancies shall be filled by individuals appointed by the Mayor and one of the vacancies shall be filled by an

individual appointed by the County Commission. In years in which four such terms expire, two of the vacancies shall be filled by individuals appointed by the Mayor and two vacancies shall be filled by individuals appointed by the County Commission. Members previously appointed and serving at the time §§ 9-5-6-1 et seq. are enacted shall continue serving to the terms they were named and their terms shall not be affected by the passage of §§ 9-5-6-1 et seq.

(D) City-appointed members shall be residents of the city, and county-appointed members shall be residents of the county.

(E) At least a majority of the membership of the Board shall be individuals who represent the public interest and meet the requirements of state and federal guidelines set forth in the New Mexico Air Quality Control Act, Sections 74-2-1 et seq. NMSA 1978, and the federal Clean Air Act, 42 USCA § 7401 et seq., as amended. Further, to the extent that it does not conflict with this division. Board members shall be representative of such groups as environmental health, engineering, legal, education, scientific, environmental, or industrial interests.

(F) The Director of the Department of Environmental Health is an *ex officio* member of the Board, but does not have a vote.

(G) A quorum of four members is required for the conduct of business. The Board will adopt rules to govern its proceedings.

(H) The Board will meet in appropriate public facilities providing seating arrangements for the expected public. The Board shall meet monthly, unless a special need requires that additional meetings be held. Notice of time, place, and agenda of meetings must be published as prescribed by law. Meetings shall be open to the public as required by law.

(I) Minutes of Board meetings shall be kept and filed with the City Clerk and County Clerk. Additional copies, as indicated, shall be forwarded to the Chief Administrative Officer and the County Manager.
('74 Code, § 6-17-2) (Ord. 12-1975; Am. Ord. 32-1990)

§ 9-5-6-3 CONFLICT OF INTEREST.

Any Board member having a pecuniary interest in matters before the Board must disqualify himself from discussion and vote on such matters.
('74 Code, § 6-17-3) (Ord. 12-1975)