

Leadership Guide:

Boards,
Councils,
Committees, and
Commissions



THE NEW TOWN ZONING ORDINANCE



02	Welcome and Orientation
04	Introduction
06	Notice Preparation and Guidelines
07	Agenda Preparation and Guidelines
13	Role of the Chairperson
14	Preparing Motions
18	Staff Responsibilities
20	Legal Matters
26	Templates
28	City Ordinance Section 6 Public Boards
40	Article 15 The Open Meetings Act (NMSA)



City of Albuquerque Office of the Mayor

Timothy M. Keller | Mayor
Samantha Sengel, EdD | Chief Administrative Officer
Kevin Sourisseau, CPA | Chief Financial Officer
Patrick Montoya | Chief Operations Officer
Matthew Whelan | Deputy Chief Administrative Officer
Mariela Ruiz-Angel, MSW, MBA | Assoc Chief Administrative Officer

Dear Board and Commission Members and Staff,

Welcome, and thank you for stepping up to serve our community as a member of a City of Albuquerque board, Commission, or Committee. Boards play such an important role in City governance by assisting my office and City Council in addressing the broad range of specific issues that matter to Burqueños. Your service provides us with needed professional expertise, facilitates community decision-making, and functions as a primary connection point between the community, City staff and departments, and the City Council.

The City of Albuquerque has many Boards, each with distinct responsibilities. As a new Board member, you should familiarize yourself with the documents that govern your particular board: these may include City ordinances, resolutions, Board bylaws, relevant element(s) of the General Plan, and other documents, all available from your staff liaison. The staff liaison is generally the Department Director or their designee. A review of these documents will help you get a sense of what your responsibilities are and are not so that you can be as effective as possible in your role.

This Handbook is a reference for the basic protocols that apply generally to all City Boards. As a new member, you may want to meet with the staff liaison of your Board to get a better sense of the board's responsibilities and how you can contribute. Along with familiarizing yourself with your Board's foundational documents, you can also review agendas and minutes from recent meetings to see what issues are currently a priority for the board and the broader community.

Learning your role and developing an effective voice can take time, and we appreciate you dedicating your time to taking on this important role in our city. Your work is deeply appreciated by all of us in the Mayor's Office, City department staff, City Council, and the Albuquerque community. Your willingness to get involved and be a part of the solution is what helps us continue to make our city a better place.

In the spirit of Albuquerque,

Timothy M. Keller
Mayor

General Information About the City of Albuquerque

The City of Albuquerque as a community was established in 1706 with the founding of “Old Town” by the Spanish. In 1885, while New Mexico was still a territory of the United States, Albuquerque was chartered as a Town, and in 1891, Albuquerque was organized under Territorial laws as a City.

The Charter adopted pursuant to State Law, under which the City of Albuquerque government now operates, was adopted in 1917. It changed the system of government from a Mayor-Council (ward) system to a Commission-Manager system. The Charter was amended four times before the City’s system of government was changed to the Mayor-Council form of government in 1974. Albuquerque is the largest municipality in New Mexico.

The City of Albuquerque is a charter City. In New Mexico, cities can be organized under either the general laws of the State or a charter adopted by local voters. Cities organized under the general laws of the State have less autonomy than those that adopt their own charter. General law cities follow the laws set forth in the Government Code.

Charter cities, like Albuquerque, have more autonomy and can adopt procedures for matters considered “municipal affairs.” The New Mexico Constitution grants charter cities the power to make and enforce all ordinances and resolutions regarding municipal affairs. This allows charter cities greater flexibility in managing local issues and tailoring governance to the specific needs of their communities.

Introduction

Purpose for Boards, Commissions and Committees:

In most cases Board, Commission, and Committee members are appointed by the Mayor and confirmed by the City Council. Because of the complexity and diversity of issues facing government today, it is impossible for the Mayor and Council Members to know and gather all pertinent decision-making factors for every situation.

An appointment to a Board is an honor and a responsibility and increases citizen participation in government affairs. It is important that each member regularly attends meetings, understand their duties and role, and work to contribute to the betterment of the community. City staff provides technical and administrative assistance to the City Council and appointed Boards. Certain Boards have the authority to make final decisions; some decisions may be appealed to the City Council or Court.

How Appointments Are Made:

Individuals interested in serving on a Board are invited to complete an application form online and submit it to the Office of the City Clerk.

Applications remain on file for one year. When a vacancy occurs, it is publicized, and all available applications are reviewed. The applications are forwarded to the Mayor for consideration and action.

Incidental Expenses and City Communication:

The City does not reimburse expenses incurred by City Board members. Additionally, the City does not provide a City email address for Board members, so all communications must be handled through personal or other non-City email accounts.

All communications related to Board actions are subject to the Inspection of Public Records Act and may become public. Because e-mail communications can ultimately lead to the exchange of information intended to, or which may, create collective concurrence among a quorum of Board members, e-mail communications between Board members relative to Board business should be avoided.

The City of
Albuquerque has
58 different boards!

Eligibility Requirements/Qualifications:

To be eligible to serve on a Board, members should normally be a resident of the City of Albuquerque. Some Board member eligibility can be met if a person lives in the greater Albuquerque area or owns a business in the City of Albuquerque. The Mayor and Council are always seeking people interested in serving the City and willing to donate their services and expertise.

Youth Board members must be students between the ages of 14 and 18.

Upon appointment, all new members are required to submit a conflict of interest form, among other documents.

Meeting Guidelines and Procedures

Meeting Times:

Meetings are open to the public. When a regularly scheduled meeting falls on a City observed holiday, the meeting will be rescheduled or canceled. Regular meetings can be rescheduled when deemed necessary.

The calling of a special meeting, or the cancellation of any regular meeting, must be coordinated between the Chairperson and staff, and will be subject to legal notice requirement under the Open Meetings Act.

No meetings will be held without a staff representative present. Board members will also be notified in advance of the cancellation or re-scheduling of any meetings. No business can be transacted without a quorum present and voting.

A member who is unable to attend a meeting is responsible for notifying staff at the earliest possible time. A complete agenda is prepared and made available to each member a few days in advance of the meeting, as well as any additional material pertinent to the agenda item(s).

Chairperson and Vice Chairperson Election:

All Boards must elect at least two officers, these positions are usually referred to as a Chairperson and Vice Chairperson. When a new Board is formed the first order of business on the agenda will be for the Board to elect the required officers.

In the event of an officer's resignation or removal, the Board must elect another member for the unexpired term. All officers shall be elected by the members for a term of one year and no officer shall serve more than two consecutive terms. There are some exceptions when a Board elects a non-appointed member.

Attendance:

For Boards to function effectively and accomplish their goals, all members must be active participants. This means all members must be present at all meetings. Any member who is unexcused from more than three (3) consecutive meetings or absent from more than 50% of the meetings in a 12-month period may be removed from Board membership.

Notice Preparation and Posting

The New Mexico Open Meetings Act mandates that Boards provide reasonable advance notice of all meetings to promote transparency and public participation. Meetings of a quorum of the Board, whether open or closed, require notice.

There cannot be any secret meetings, all meetings closed to the public require proper notice and must be announced. Notice of meetings should be provided as far in advance as possible.

At least once a year, each Board shall determine what is reasonable notice to the public. Under most circumstances, notice should be provided at least 10 days before a regular meeting, 3 days before a special meeting, and 24 hours before an emergency meeting. Any changes or cancellations must be notified in the same manner as the original notice. When a Board is considering a proposed rule or regulation the notices shall be provided at least 14 days prior to the meeting to allow for public comment from the public.

Notice vs. Agenda

A meeting notice is a formal announcement that informs the public when and where a meeting will take place and what topics will be covered. It must be posted 10 days before the meeting.

A meeting agenda is a well-organized document that outlines specific items or topics to be discussed or acted upon. It must be posted 3 days before the meeting.

A meeting notice must include the date and time, location, and the agenda or information on how to obtain a copy of the agenda. Meeting notices must be made available at a minimum by either publication or posted in a place and manner accessible to the public, which is typically City Hall and posted online.

All notices must be posted to provide the public with reasonable notice. Each Board shall post on the City Clerk's website its annual schedule of meetings upon adoption, as well as any changes or modifications to the annual schedule.

Agenda Preparation and Posting

Each item on the agenda must be descriptive and understandable to the public. The agenda must contain a list of specific items of business to be discussed or transacted at the meeting. Agendas should avoid describing agenda items in general, broad, or vague terms.

When public comment will be taken at a meeting the posted agenda should indicate when the opportunity for public comment will occur.

If a Board member or staff member intends to bring up an item for action it must be included on the agenda. Discussion of items not included on the agenda is permissible, but debate of the item should be reserved for another meeting and no action can be taken. Board members may request that the Chairperson or staff member place any item on a future agenda for action.

The agenda for regular meetings must be posted at least 72 hours prior to any meeting in a place visible to the public (City Hall) and online. A Board that ordinarily meets more frequently than once per week shall post a draft agenda at least 72 hours prior to the meeting and a final agenda at least 36 hours prior to the meeting.

The 72 hour requirement includes weekends, if a Board holds a meeting on Monday at 9:00am the agenda would have to be posted by the previous Friday at 9:00am.



Preparation for Meetings

Be prepared. Thoroughly review the agenda packet, staff reports, and any other materials before the meeting. The issues that come before Boards are important to the community as a whole and demand your consistent attention. When you agree to serve on a Board, you make a commitment to put in the time required to prepare fully for each meeting.

Understand what actions you are being called on to take regarding each particular agenda item. If you have questions regarding the agenda or agenda report, contact the staff liaison before the meeting to clarify your questions or request further information.

Know the responsibilities of your Board, as well as the limitations of your individual authority. As a member of a Board, you may be asked to provide recommendations to the City Council on behalf of the Board about specific issues, but your appointment does not empower you to supervise or direct City staff.

Keep an open mind. An objective, balanced, and receptive approach will help you assess the facts of a given issue and evaluate new ideas. When receiving written and oral public testimony, it will be necessary to discern between fact and opinion, as well as between those concerns that are relevant and those that are secondary to the issue at hand. Keeping an open mind will make it easier for you to understand all sides of an issue before you make a judgment or take a position.

Strive to appreciate differences in approach and point of view. Diversity of ideas sustains a thoughtful dialogue and a vibrant community. Likewise, take care to articulate your own ideas: remember that your individual voice is a critical part of the whole dialogue. Again, advancing common goals takes cooperation, flexibility, and a broad-based view of the public interest. When in doubt, return to the foundational Ordinance or City Charter article to guide your understanding of the complexities of an issue.

If you are unsure about something during the meeting, ask for clarification. On behalf of the public, your understanding of issues is important. Each Board has a City staff liaison to provide information to assist the members throughout the decision-making process.

Guide to Board Procedure

Each Board may promulgate rules and regulations for its conduct as deemed necessary and any such adoption of rules must be conducted under ROA 1994, 2-6-1-4(C). The following provides some guidance as to how Board decorum can be conducted.

Chairperson:

The Chairperson, just like any other Board member, has the right to make and second motions, participate in debate and vote on all Board matters.

Board Members:

Every Board member desiring to speak will address the Chairperson and, upon recognition by the Chairperson, will confine comments to the question under debate, avoiding all indecorous language and references to personalities and abiding by the following rules of civil debate. A member, once recognized, will not be interrupted except according to rules of parliamentary procedure (e.g., for a point of order, parliamentary inquiry, question of privilege or appeal of Chairperson's procedural ruling).

Public meetings will proceed smoothly if all participants keep the following tenets in mind:

- (1) We may disagree, but we will be respectful of one another.
- (2) All comments will be directed to the issue at hand.
- (3) Personal attacks should be avoided.

Addressing the Board from the Floor

Securing Permission to Speak:

Any person desiring to address the Board will first secure permission from the Chairperson. Any Board member may also request of the Chairperson that a member of the public be recognized to speak. Remarks should be directed to the matter being considered.

Individuals:

Persons addressing the Board are requested, but not required, to give their name in an audible tone of voice for the record. The time limit will be as stated in the agenda or as directed by the Chairperson.

All remarks must be addressed to the Board as a whole and not to any individual member or to members of the audience. Without the permission of the Chairperson, only members and the person addressing the Board are permitted to enter into any discussion.

However, while Board members may ask speakers questions, the speaker is not required to answer questions, and Board members should not debate matters with speakers.

All remarks must be delivered in a respectful manner.

Spokesperson for Group Presentations:

Organized groups that wish to make a presentation longer than the time allowed in the agenda should contact the Board staff prior to the meeting.

Addressing the Board After Motion Made:

After a motion is made by the Board, no member of the public may address the Board except upon the request of the Chairperson or a member of the Board through the Chairperson.

Decorum in Meetings Proceedings

- Start meetings on time. Keep the agenda in mind in order to give each item the appropriate time.

- Announce at the start of a meeting if the order of agenda items is to be rearranged for convenience, for response to those attending only for certain items, or for better pacing of the agenda.
- Let the Chairperson run the meeting.
- Be fair, impartial and respectful of the public, staff and each other. Give your full attention when others speak.
- Learn to trust your own good judgment on decisions.
- Remember that people may be attending a meeting for the first time and may be unfamiliar with your procedures. In your discussion, either avoid or explain technical terms or verbal shorthand.
- Listen to audience concerns. Don't engage in side conversations or otherwise be distracted during public testimony. The opportunity for public testimony is central to the strength of democracy, and is therefore encouraged. Active listening, however, does not mean engaging the public in debate. Your response is appropriately saved for after the public testimony is closed.

- Close the public testimony before you begin serious deliberation on an issue.

Sometimes, questions can most effectively focus discussion and direct decision-making. For example:

For Staff:

- What is the history behind this item?
- What are the benefits and drawbacks?
- What other alternatives did you consider?

For other Board members:

- What do you think about this item?
- What have you heard from the residents or subject matter experts
- What would it take for you to support this?

For the public (at a hearing):

- What are your concerns?
-

- How will this proposal affect you?
- What specific, constructive, alternatives can you recommend?

For yourself:

- What are we trying to accomplish?
- What are the long-range interests of the community?
- What guidance can be found in our foundational documents?

Often, you must balance multiple views, neither favoring nor ignoring one individual or group over another. Your obligation is to represent a broad-based view of the community's long-range interests.

Remember that your Board exists to take action. It is not simply a discussion group or debating society.

Endeavor to end meetings at a reasonable hour. Short breaks may be helpful during long meetings. If your board has a set end time, extending the meeting beyond an appointed hour may be subjected to a vote when that hour nears.

Role of Chairperson

The Chairperson must preserve order and decorum at all meetings of the Board, announce the Board decisions and decide questions of order. The Chairperson is responsible for ensuring the effectiveness of the group process.

A good Chairperson balances moving the discussion forward with involving all of the Board members and allowing for adequate public participation. In the absence of the Chairperson the Vice Chairperson will act as presiding officer.

Responsibilities of Chairperson:

- Ensure the public understands the nature of the issue being discussed (for example: reason for discussion, process to be followed, opportunities for public input, and timeline for decision).
- Keep discussion focused on the issue at hand.

- Solicit opinions from Board members. Encourage evaluation of new, tentative, or incomplete ideas. Discourage overly dominant Board members from having disproportionate control over the discussion.
- Protect Board members, staff and the public from personal attacks.
- Provide structure for addressing complicated issues.
- For major items, delay analysis and action until the full range of alternatives is on the table.
- Attempt to reach decisions expeditiously on action items. At those times when action would be premature, guide discussion toward a timeline or framework for responsible action.

Preparing Motions

Board meetings are usually conducted according to parliamentary procedure or “Robert’s Rules,” although the level of formality may vary. The Chairperson generally directs the meeting, and their rulings must be followed unless they are overruled by the body.

When a member wishes to propose an action on a particular item on the posted agenda for the Board to consider, the member makes a motion.

A motion goes through the following steps:

- (1) The member asks to be recognized by the Chairperson.
- (2) After being recognized the member makes the motion: *“I move that we...”*
- (3) Another member seconds the motion: *“I second the motion.”*
- (4) The Chairperson restates the motion and asks for discussion on the motion.
- (5) When the Chairperson determines that there has been enough discussion, the debate may be closed with: *“I call the question.”* or *“Is there any further discussion?”*



(6) If no one asks for permission to speak, the Chairperson then puts the question to a vote either by voice: "All those in favor say aye. All those opposed say nay." or by asking for a roll-call vote. The Chairperson should restate the motion prior to the vote to ensure the motion is clearly understood by all. Any member may request a roll call vote on a motion.

(7) After the vote, the Chairperson or the clerk announces the decision: *"The motion carries unanimously,"* *"The motion carries four to three (list individually if requested),"* or *"The motion has failed."*

Some common motions include:

Delay consideration: I move to

- continue the item until (date specific or date uncertain).

End discussion: A motion to table an

- item is not subject to debate and must be voted on immediately...I move to table the bill/amendment.

- Close Debate: I call for the question.

- Limit or Extend Debate: I move to limit or extend debate to...

- Request More Study: I move to refer this to staff or (committee) for further study.

- Amend a Motion: I move to amend by... If the amendment is accepted by the maker and seconder of the main motion, then it's considered a "friendly amendment," and no separate vote is required. If it is not accepted, then a separate vote to amend the main motion is required. The amendment must be voted on before the main motion.

- Adopt a Staff Recommendation: I move to adopt staff's recommendation to...

- Deny Staff Recommendation: I move to deny staff's recommendation to...

- Modify Motion: I move to adopt the recommendation with the following modifications:

Properly phrasing a motion can be difficult and corrections may be necessary before it is acted upon. Until the Chairperson states the motion, the member making the motion may rephrase or withdraw it. Only motions that are voted on will appear in the minutes.

Members may wish to write out difficult motions. If a motion becomes too complicated, call a recess and have staff assist with the wording.

It is best to avoid including more than one proposal in the same motion. This is especially important when Board members are likely to disagree.

Any member may ask the Chairperson to divide a motion. If others do not object, the Chairperson may proceed to treat each proposal as a separate motion.

Board Role and Relationships

Boards, Commissions and Committees

The role of a Board member is different from that of a private citizen in that ideas expressed and decisions made must be supported by those documents which guide our City.

An individual advisory body member is not simply present to voice a personal opinion but is responsible for exercising discretion within the limitations of the City Charter and the other relevant guiding documents. In other words, the Board member offers a citizen's interpretation of the values, goals, and procedures defined by and bases decisions on these underlying principles and documents.

Board–Council Relationship

The primary purpose of most City Boards is to provide judicious advice to the City Council, the elected policy-making body of the City.

The Board's role can include hearing public testimony on the Council's behalf, building community consensus for proposals or projects, reviewing written material, facilitating study of critical issues, guiding the implementation of new or regulating established programs, assessing the alternatives regarding issues of community concern and ultimately forwarding recommendations to the Council for consideration.

There are times when the Board's recommendation may not be adopted or may be modified by the City Council. It is important to recognize this not as a rejection of the integrity of the recommendation, but as an inevitable part of the process of community decision-making.

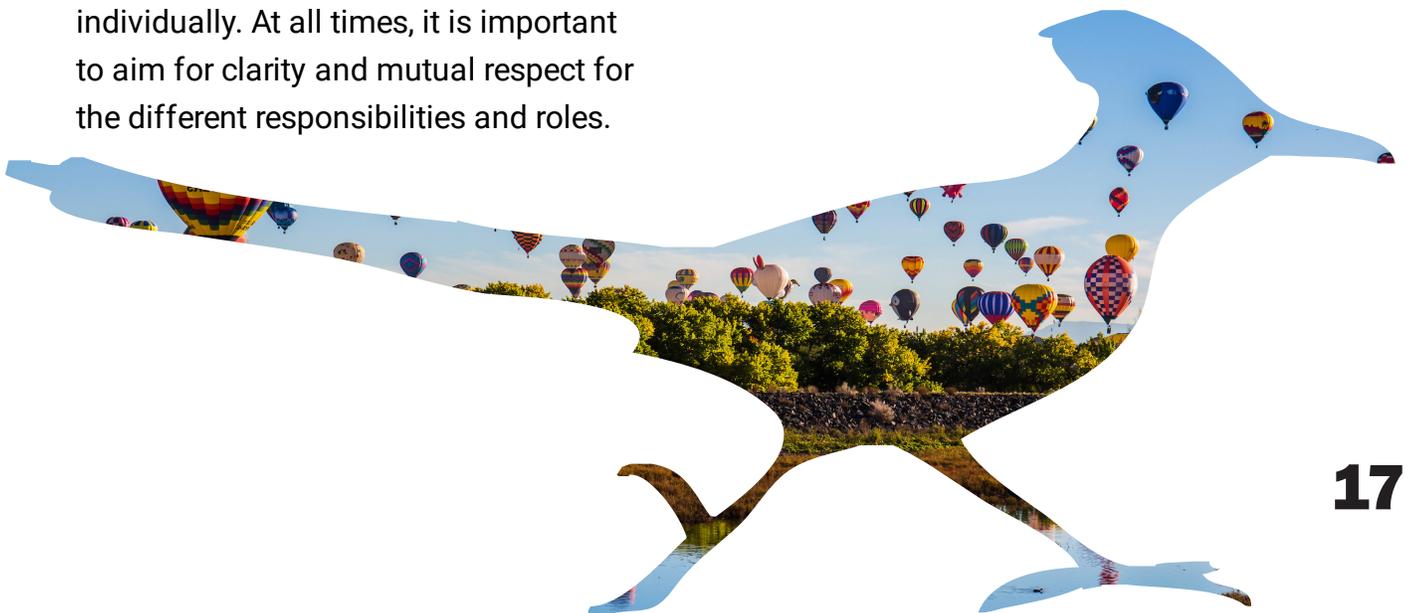
Throughout this process, the form and formality of the relationship between Board members and Council members will vary. Some Board members will have regular contact with individual Council members, while others may serve solely in the group setting. This relationship will depend as much on your Board as it does on you and the Council

For example, there are times when the Chairperson may address the Council formally on behalf of the Board, and other times when a Board member may meet with a Council member individually. At all times, it is important to aim for clarity and mutual respect for the different responsibilities and roles.

Board–Staff Relationship

The relationship of the Board and staff is active and continuous. Both the Board and staff are motivated by the shared goal of advancing the City's best interests. Yet, while the goal is shared, there are times when the approach and responsibility toward implementing the goal are significantly different. Because the distinctions in responsibility are not always explicit, cultivating a balanced understanding of your role is essential.

The interaction does not need to be adversarial, but should promote respect for different perspectives and appreciation for each other's strengths.



In order to recognize the range of roles and responsibilities, some of the issues to clarify are:

What are the reporting relationships? Does the staff liaison report directly to the Board, the department supervisor, or both? ***The assigned staff person reports to the Department supervisor or director and assists the Board with agendas, topics, and procedures.***

How is direction given? Can a study be directed to the staff from a Board, or must it be given through an administrator or elected body? ***The department supervisor or director provides directions to the staff liaison. The Department supervisor or director will direct any request for a study by staff. The advisory Board receives direction from the regulatory requirement to which they serve and, in some instances, from the Council.***

How are staff proposals and recommendations handled? ***The staff must strive to provide the Board with its best professional judgment, and this should be continuously encouraged. Staff proposals and recommendations are taken to the Board for input and feedback. Information from or action by the Board is provided for the Council's consideration.***

How are disputes between Board members and staff handled? ***Proper lines of communication should be established beforehand to deal with problems. Should an issue arise, the Board member must follow the chain of supervision up to and including the Department Director.***

Staff Responsibilities

Staff responsibilities may include:

- Being informed about the latest developments in their field.
- Provide background and express views to the Board on important issues.
- Providing administrative support, including agenda preparation and taking of minutes at meetings.
- Maintaining a professional position on all topics.
- Assisting the Board to stay on track and focused.
- Interpreting City Council, City department, and relevant state, federal, and international actions and policies.

- Making sure the intent of the Board is not lost after a decision.
- Develop a rapport with the Chairperson and Board members.
- Alert Board members of possible detrimental actions.
- Present Board recommendations to the City Council.

Keep in mind that there is a significant difference between a staff liaison and subject matter experts. Subject matter experts include department directors or attorneys appointed to the board.

In the event the recommendation of staff and the recommendation of the Board differ regarding a given issue, both recommendations may be presented to the City Council. Both staff and the Board can each present pertinent information to City Council. Staff can present both alternatives, and the Board Chairperson or chosen member delegate may be present to answer the Council's questions.

When there is a significant minority opinion, it can also be brought to the attention of the Council, either as a separate report or as testimony from a Board member.

Regardless of the approach chosen, every effort should be made by staff to include the approved Board minutes of the relevant meeting(s) as part of the Council agenda report.

City Clerk

The City Clerk is a valuable resource for Boards. The Office of the City Clerk handles the acceptance and maintenance of applications, processes appointments, and updates membership rosters. The City Clerk is available to provide guidance and assistance regarding the Open Meetings Act, agenda processing, and any procedural questions that may arise during meetings. As the filing officer for Conflicts of Interest and other required filings, the office ensures that all necessary documentation is properly filed and maintained.

City Attorney

The City Attorney serves as a valuable resource for Board members, offering legal advice on compliance with the Open Meetings Act and providing general legal counsel for various Board-related matters.

Whether it's addressing concerns about agendas, clarifying meeting procedures, or determining conflicts of interest, the legal department or the Board appointed legal attorney may be available to provide expert advice and support. Some Boards may have their own attorney who can provide advice to the Board.

Legal Matters

The Open Meetings Act (OMA):

The City of Albuquerque Boards are subject to State law governing open meetings and records. New Mexico law governing open meetings is found in NMSA 1978 Section 10-15-1 (A). Called the "Open Meetings Act." The general intent of OMA is for boards to act openly and for their records to be open to the public.

Exemptions may exist and each Board should orient new members on what, if any, exemptions exist for their meetings and records. The legal department may be available for consultation on which exemptions apply to the Board.

Meeting Types:

The Open Meetings Act recognizes three types of meetings: regular, special and emergency meetings. Regular meetings must be publicly announced with reasonable notice, typically through an annual notice that outlines the regular meeting schedule. Any changes to the schedule require public notice.

Special meetings are called as needed to address issues that arise outside the regular meeting schedule and must comply with the notice requirements, including posting the agenda at least 72 hours in advance.

Emergency meetings are convened under circumstances requiring immediate attention to prevent harm or significant disruption, with less stringent notice requirements, but public bodies must provide as much notice as practicable.

Staff liaisons are responsible for identifying the type of meeting and posting all notices, including the meeting notice, agenda, and minutes.



OPEN

MEETINGS



FOSTER

TRANSPARENCY



Regular Meetings

The City's ordinance ROA 1994, §2-6-1-4(B)(2) requires Boards to determine what is a reasonable notice to the public and set an annual schedule. Each Board must post on the City Clerk's website: its annual schedule of meetings, all changes in the annual schedule, and notice of emergency meetings.

The Open Meetings Act mandates that meetings where public business is discussed or decided must be open to the public. A "meeting" includes any gathering, whether formal or informal, of a quorum of the public body. The Act prohibits secretive discussions among a quorum outside the public meeting context, including "rolling quorums," where a series of smaller meetings or communications collectively involve a quorum.

Closed Meetings

Secret meetings should not be held. Closed meetings require notice and the subject of the notice must contain reasonable specificity to provide the public with the general subjects to be discussed.

A meeting can be fully closed or closed for only a portion of the meeting. You can refer to situations where a closed meeting may be considered by reviewing 10-15-1(H) of the Open Meetings act at the end of this guide.

Closed Meeting procedure:

Closed meeting are unusual for most boards and if the board believes a closed meeting is necessary they should contact the legal department. All closed meetings or portions of meetings closed to the public must follow the procedure specified in Section 10-15-1(l) of the Open Meetings Act. Going into a closed/executive session or otherwise excluding the public from part of an otherwise open meeting:

- (1) A member must make a motion must cite the legal authority for closing the meeting.
- (2) The motion must include the topic to be discussed with reasonable specificity.
- (3) The vote to close the meeting must be taken in an open meeting.

(4) The motion must be by majority vote and each vote must be recorded in the minutes (roll call vote).

For example, the following must be stated as a motion to move into an executive session.

“I move the Board to discuss the case of Jones v. City with the Board’s attorney in executive session, as authorized by Section 10-15-1(H)(7) of the Open Meetings Act.”

Meetings that are entirely closed to the public are required to post a public notice. The notice must state the specific law authorizing closure and describe the topics that will be discussed with reasonable specificity. The minutes for a closed session must state that the matters discussed were limited to what was in the motion.

Social Situations

E-mail and Administrative Communications:

Because e-mail communications can ultimately lead to the exchange of information intended to, or which may, create collective concurrence among a quorum of Board members, e-mail communications between Board members relative to Board business should be avoided.

While two members of a five-member Board, for example, may appropriately communicate with one another by way of email, the “forwarding” of such an email message to a third member violates the OMA because it constitutes a meeting of a quorum of the public body’s members outside of a publicly noticed meeting. As a result, all communication is discourage.

Even with a quorum, communications solely related to administrative or scheduling issues are likely not covered under OMA. For example, if the chair emails all members only to confirm their attendance at the next meeting, that communication does not fall under OMA. Only if the email does not include or result in any communication on “public business” (eg. Formulating public policy or discussing among a quorum any substantive issues before the Board).



Subcommittees:

Meetings of a committee with fewer members than a quorum are not subject to OMA if they are either fact-finding or only execute the policy decision or final action of a Board and are not otherwise a policymaking body.

Chance meetings:

There may be situations in which members see each other outside of a scheduled meeting. However, unless a quorum of members is present and discusses public business, the Board is not required to post a notice. The best practice is that all Board members should generally avoid discussing public business outside of a notice meeting to avoid a rolling quorum.

Quorum

The Act applies to all meetings of a “quorum.” To establish a quorum, the majority of the appointed members must be present. For instance, in a Board with a total of nine seats, seven of which are filled and two of which are vacant, four appointed members need to be present. Once a quorum is met, decisions can be made by a majority of those present. These standards apply unless otherwise specified in the enabling legislation or bylaws

Rolling Quorums:

A Rolling Quorum refers to a situation where a quorum of members discusses and deliberate on a topic over multiple conversations or interactions outside of a noticed meeting, even if a quorum of members are never simultaneously present.

Remote Meetings

The Open Meetings Act allows remote meetings via telephone or telecommunications platforms, such as Zoom or other platforms (NMSA 1978, §10-15-1(B)).

Remote meeting best practices are as follows:

- At the start of the meeting, the Chairperson should announce the names of those members of the Boards participating remotely.
- All members of the Board participating remotely must identify themselves when they speak and must be clearly audible to other members of the Board and to the public.

- The Chairperson should suspend discussion if the audio or video is interrupted.
- All votes of the Board must be by roll call vote.
- The Board should create and maintain a recording of the meetings' open session(s).
- The Board should appoint a moderator or staff liaison to oversee meeting flow, facilitate transitions between in-person and remote attendees, manage speaking queues, and address technical issues.
- They are also not allowed to participate in contract negotiations or voting if they have a private financial interest in the business or entity involved.
- Representing private interests in any Board-related action from individuals or businesses involved with the Board.
- Boards are not allowed to accept any valuable gifts, including services, loans, or promises, from individuals or businesses involved in the affairs of the Board, even if their involvement is not disclosed. This rule applies even if the donors remain unidentified.

Code of Ethics

Conflict of Interest:

The City of Albuquerque has adopted a Code of Ethics, Article XII of the City Charter, which addresses the conflicts of interest by Board members. The City Charter, Article XII §4(a) prohibits Board members from knowingly:

- Disclosing or using confidential information concerning the property, government, or affairs of the City without proper authorization to further their private financial interests or the interests of others.

Items such as invitations, food, drinks, travel, or lodging given for your benefit as a Board member are considered gifts, while political contributions or gifts received from a close family member are not. You are not allowed to accept gifts of any value from prohibited sources, including cash gifts, gratuities (tips), or honoraria (speaking fees). There are limitations on the acceptance of gifts by boards and board members. Please be familiar with Art. XII, Section 2 (Definitions) and Section 4 (Conflict of Interest) of the City Charter.

Templates

The following meeting notice and agenda format are provided to assist Boards in facilitating understanding and to provide some consistency among the City's appointed Boards. However, the order of the subject titles may vary to meet the needs of the particular Board.



City of Albuquerque Office of the **Department**

Timothy M. Keller, Mayor

Department Director

BOARD, COMMITTEE OR COUNCIL NAME

ZOOM: [Insert link or room location] +12532158782,,87941805305# US (Tacoma)
+13462487799,,87941805305# US (Houston)

Chairperson Name, Chair
Member Name
Member Name
Member Name
Member Name
Member Name

AGENDA

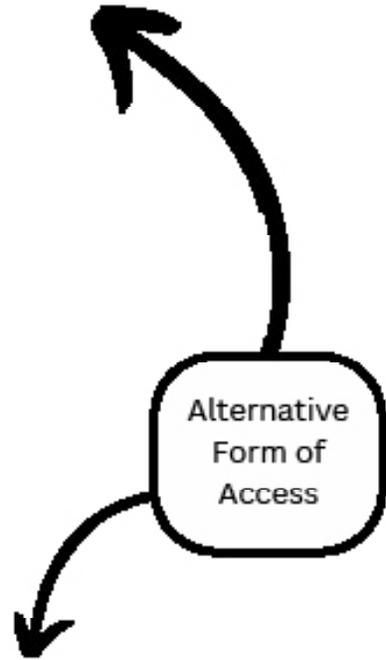
Weekday, Month XX, 20XX
TIME (9:00 A.M.)

- I. Call to order.
- II. Review and approval of agenda for Weekday, Month XX, 20XX.
- III. Review and approval of minutes from Weekday, Month XX, 20XX.
- IV. Public Comment (optional)
- V. Agenda Item #1
- VI. Agenda Item #2
- VII. Agenda Item #3
- VIII. Old Business
- IX. New Business
- X. Adjournment.

Except for any portion of the meeting that may be closed by the Board pursuant to the provisions of the New Mexico Open Meetings Act, the meeting will be open to the public and can be viewed at:
<https://www.cabq.gov/artsculture/govtv>.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Office of **DEPARTMENT** at **505-555-5555** or email@cabq.gov at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact The Office of **DEPARTMENT** at **505-555-5555** if a summary or other type of accessible format is needed.

POSTED AT CITY HALL AND ONLINE





City of Albuquerque

Office of the **Department**

Timothy M. Keller, Mayor

Department Director

BOARD, COMMITTEE OR COUNCIL NAME

NOTICE OF MEETING

WEEKDAY, MONTH XX, 20XX
TIME (9:00 A.M.)

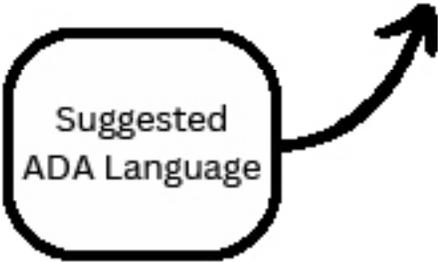
Notice is hereby given that the **[INSERT BOARD, COMMITTEE OR COUNCIL NAME]** has scheduled a meeting for **Weekday, Month XX, 20XX**, beginning at **TIME (9:00 A.M.)**, via Zoom **[Insert link or room location]** +12532158782,,87941805305# US (Tacoma) +13462487799,,87941805305# US (Houston)], to consider:

- Subject matter #1
- Subject matter #2
- Subject matter #3

The agenda for the upcoming meeting is not yet available. To request a copy once it is finalized, please contact **[INSERT STAFF NAME, (505)-PHONE, AND EMAIL]**.

Except for any portion of the meeting that may be closed by the Board pursuant to the provisions of the New Mexico Open Meetings Act, the meeting will be open to the public and can be viewed at: <https://www.cabq.gov/artsandculture/govtv>.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Office of **DEPARTMENT** at **505-555-5555** or email@cabq.gov at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact The Office of **DEPARTMENT** at **505-555-5555** if a summary or other type of accessible format is needed.



POSTED AT CITY HALL AND ONLINE



28

**City Ordinance Section 6
Public Boards,
Commissions, and
Committees**

§ 2-6-1-1 Short Title.

Sections 2-6-1-1 et seq. shall be known and may be cited as the "Public Boards, Commissions and Committees Ordinance."

('74 Code, § 1-12-1) (Ord. 55-1992)

§ 2-6-1-2 Definition.

For the purpose of §§ 2-6-1-1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC BOARDS, COMMISSIONS and COMMITTEES. Every board, commission, committee and other similar body whose meetings are required by the Open Meetings Act, Chapter 10, Article 15 NMSA 1978, as amended and as supplemented from time to time, to be open to the public.

('74 Code, § 1-12-2) (Ord. 55-1992)

§ 2-6-1-3 Membership.

The following shall govern the qualifications, appointment and conduct of members of the public boards, commissions and committees of the city; provided that the provisions relating to qualifications and appointment of members of public boards, commissions and committees of the city shall apply only to members who are appointed after the effective date of §§ 2-6-1-1 et seq. and that any member of any public board, commission or committee in existence on the effective date of §§ 2-6-1-1 et seq. shall complete the term of office for which such member was appointed, unless said member's conduct is in violation of §§ 2-6-1-1 et seq.

(A) Qualifications.

(1) Each person appointed to any public board, commission or committee shall normally be a resident of the city.

(2) No person regularly employed on a full-time basis by the city shall be appointed to any public board, commission or committee; provided that the Mayor, Councillors or administrative officers of the city may be appointed as ex officio members.

(3) No member of the immediate family of any elected city official shall be appointed to any public board, commission or committee.

(4) No person shall be a member of more than one public board, commission or committee at any one time.

(5) No person shall serve more than two consecutive terms on any public board, commission or committee; provided that if a person is appointed to fill an unexpired term of another person, that term shall not be considered a term for the purpose of this limitation if the time remaining in the term at the time of the appointment is one year or less.

(B) Appointments.

(1) Except as otherwise provided by ordinance the Mayor, with the advice and consent of the Council, shall appoint the members of the public boards, commissions and committees. An appointment is not effective until Council approves it.

(2) The members of each public board, commission or committee shall be appointed from the broadest possible base of the community at large and, to the fullest extent possible, the Mayor will seek information from interest groups as to potential appointees.

(3) The Mayor shall send written notice of the appointment to the appointee, which notice shall clearly state that such appointment is made subject to all the provisions outlined herein, and the member so appointed may be removed by the Mayor for violation of any of the provisions hereby established.

(4) Each appointment shall be accepted in writing by the appointee confirming that such appointee accepts the policies outlined herein as a condition precedent to such appointee's appointment and holding office.

(5) Each appointment shall be for a term of three years unless the appointment is to fill a vacancy. The initial terms of members of newly established public boards, commissions and committees shall be staggered and shall be for either one, two or three years.

(6) Every member, unless removed as provided herein, shall hold office until a successor has been duly qualified unless the Council has voted not to approve that member for a reappointment, in which case, the member shall not serve beyond the date the member's current term expires or the date the Council votes not to approve the member, whichever is later.

(7) For all public boards, commissions or committees, whose members are not appointed based on recommendations of individual Councilors, the Council President may notify the Mayor in writing that a term has expired or a position is otherwise vacant and the Mayor shall have 60 days to submit a recommended appointment to fill that position. If the Mayor fails to submit a name within 60 days of notification, the Council President shall have the right to make the appointment subject to the advice and consent of the City Council.

(C) Conduct.

(1) Any member of a public board, commission or committee may be removed from office by the Mayor or by an affirmative vote of two-thirds of all Councilors after due notice and hearing if such member has missed three consecutive meetings or has been absent from more than 50% of the meetings held during any twelve consecutive months.

(2) Any member of a public board, commission or committee may be removed from office by the majority of Mayor or by an affirmative vote of two-thirds of all Councilors after due notice and hearing if such member has violated any law, regulation or charter provision, or for other good cause such as the intentional failure to carry out the duties of the board, commission or committee.

(D) Number of Members. Except as may be expressly provided otherwise in the ordinance or resolution establishing a specific public board, commission or committee, each public board, commission and committee shall consist of five members.

(74 Code, § 1-12-3) (Ord. 54-1975; Am. Ord. 60-1975; Am. Ord. 55-1992; Am. Ord. 35-2003; Am. Ord. 57-2003; Am. Ord. 1-2008; Am. Ord. 2-2008; Am. Ord. 8-2009)

§ 2-6-1-4 Organization.

The following provisions shall govern the organizational structure of the public boards, commissions and committees.

(A) Officers.

(1) The minimum number of officers of any public board, commission or committee shall be not less than two officers (such as the Chairperson and Vice-Chairperson) and such other officers as such public board, commission or committee may deem necessary.

(2) All officers shall be elected by the members for a term of one year and no officer shall serve more than two consecutive terms.

(B) Meetings.

(1) All meetings of any public board, commission or committee shall be open to the public.

(a) When a meeting of any public board, commission or committee is held in person, the meeting shall be held in a city owned facility.

(b) A meeting of a public board, commission or committee may be held remotely or hybrid in-person with a remote option. Any meeting held remotely or hybrid with a remote option is subject to the requirements of the Open Meetings Act. Any hybrid in-person meeting with remote option shall also be subject to subparagraph (a) of this provision of the code.

(2) Reasonable notice shall be given to the public prior to any meeting of any public board, commission or committee. At least once a year, each public board, commission or committee shall determine what is reasonable notice to the public; provided that in no event shall notice be less than the notice required for Council meetings. Each public board, commission and committee shall post on the City Clerk's web site: its annual schedule of meetings upon adoption of its annual schedule of meetings; all changes in the annual schedule of meetings; notice of special meetings; and notice of emergency meetings, giving the time, date and location of each meeting with a phone number of a contact person for those disabled people needing assistance to attend and observe the meeting.

(3) Minutes shall be kept of each meeting and filed electronically with the City Clerk by each public board, committee, and commission upon the approval of such minutes by the public board, committee, or commission. The City Clerk shall post all minutes received on the City Clerk's web site.

(4) Each public board, commission or committee shall meet at least quarterly provided that hearings by a public body in connection with an administrative adjudicatory proceeding need only occur as such cases are brought before such board, commission or committee.

(5) A majority of all the members of a public board, commission or committee shall constitute a quorum for the transaction of business. A motion shall carry upon the affirmative vote of the majority of the members present at any meeting. A member of a public board, commission or committee may participate in a meeting of the public board, commission or committee by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time, members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting and a quorum of the public board, commission or committee is physically or remotely present at the meeting.

(C) Rules and Regulations.

(1) Each public board, commission or committee may promulgate such rules and regulations for its conduct as may be deemed necessary.

(2) If an ordinance or resolution establishing a public board, commission or committee provides that the public board, commission or committee may adopt rules and regulations pertaining to matters within its jurisdiction, the public board, commission or committee shall comply with the following procedures in adopting such rules and regulations.

(a) Notice of the public board, commission or committee's intention to consider the adoption of a rule or regulation shall be given by posting in the lobby of City Hall, posting notice electronically on the City Clerk's web site dedicated to the schedule of rule making hearings and meetings of public boards, commissions and committees and by giving written notice to the Mayor and the Chief Administrative Officer. All such notices shall be given at least 14 days prior to the meeting at which the proposed rule or regulation will be considered and shall be in addition to the notice to be given to the public pursuant to division (B)(2) hereof. All such notices shall state the time and location of the meeting and contain a brief description of the proposed rule or regulation and a location where the full text of the proposed rule or regulation may be obtained.

(b) The meeting, at which the proposed rule or regulation is considered, shall be open to the public and any person may give testimony in favor of or in opposition to the proposed rule or regulation, whether such testimony is given orally or in writing. In considering the proposed rule or regulation, the public board, commission or committee shall give due consideration to all such testimony.

(c) Notwithstanding division (B)(5) hereof, a proposed rule or regulation shall be deemed to have been adopted by the public board, committee or commission upon the affirmative vote of a majority of the entire membership of the public board, commission or committee plus one additional member thereof. The rules or regulations shall not go into effect until filed with the City Clerk as required in this section.

(d) All rules and regulations adopted by a public board, commission or committee shall be promptly filed with the City Clerk and shall bear the signature of the presiding officer. In addition to filing the signed rule or regulation, the public board, commission or committee shall file the adopted rule or regulation electronically on the City Clerk's web site.

(e) The electronic filing requirement contained in the previous subparagraph shall also apply to all rules and regulations adopted by a public board, commission or committee prior to the effective date of the requirement in this section to file rules and regulations electronically.

(D) Report. At least once each year, every public board, commission or committee shall present a written report to the Mayor and Council of its activities for the past year and any recommendations as may be deemed appropriate.

('74 Code, § 1-12-4) (Ord. 54-1975; Am. Ord. 60-1975; Am. Ord. 55-1992; Am. Ord. 43-2007; Am. Ord. 2023-008)

§ 2-6-1-5 Applicability.

(A) The provisions contained herein shall apply to every public board, commission and committee of the city. In the event that any of the provisions contained herein conflict with any specific provision of any ordinance or resolution establishing a specific public board, commission or committee, such specific provision shall control.

(B) The provisions contained herein shall not apply to those boards, commissions, committees, task forces and other similar bodies established by city officials or employees but not appointed or consented to by the City Council, provided that such groups have no authority to make city policy, including the power to make rules and regulations.

(C) The prohibition contained in § 2-6-1-3(A)(2) shall not apply to the appointment of city employees to those public boards, commissions and committees which are established to perform a specific task or tasks and submit a report and which have a duration of not more than one year.

('74 Code, § 1-12-5) (Ord. 54-1975; Am. Ord. 60-1975; Am. Ord. 55-1992)

§ 2-6-1-6 POLITICAL FORUMS PROHIBITED.

No public board, commission, or committee shall organize, sponsor, advertise or host any political forum for candidates running for any elective office. However, nothing in this Section is intended to restrict the members of boards, commissions, or committees from engaging in any political activities outside of the course and scope of their duties as a board, committee, or commission members.

(Ord. 2018-004)

§ 2-6-1-7 DECORUM, CODE OF CONDUCT, AND SOCIAL MEDIA.

All members of Public Boards, Commissions, and Committees are expected to follow the following guidelines for ethical conduct:

(A) Decorum.

(1) Discussions should stay focused on the topic at hand. Board members and speakers should avoid personal attacks, side conversations, or interruptions that distract from the business being addressed.

(2) The Chair may intervene (make a “point of order”) if the discussion strays from the topic or lacks professionalism. The Chair will then provide guidance to steer the conversation back on track.

(B) Code of Conduct.

(1) Integrity: We act honestly, ethically, and impartially in all our decisions and actions. We take full responsibility for our conduct and hold ourselves accountable as members of this board.

(2) Transparency: We strive for transparency and openness in all board activities, including decision-making, stakeholder communication, and public information dissemination. We foster trust and confidence through open and honest engagement.

(3) Impartiality: We approach all matters with an open mind, free from bias, prejudice, or favoritism. Our decisions and recommendations are based solely on merit, evidence, and the principles of fairness.

(4) Confidentiality: We safeguard sensitive information obtained during our board activities, strictly adhering to applicable laws and regulations regarding data protection and confidentiality.

(5) Respect: We treat everyone with dignity, respect, and empathy, recognizing and valuing the diversity of perspectives and experiences we encounter.

(6) Independence: We think, judge, and act independently. We resist undue influence, pressure, or interference from outside forces, maintaining our autonomy and objectivity.

(7) Professionalism: We conduct ourselves with professionalism, civility, and decorum in all board interactions, upholding the highest standards of conduct and demonstrating respect for all involved.

(C) Social Media Personal Posts Policy.

(1) Be conscious when mixing your business and personal lives.

(2) Social media posts concerning board matters may be a matter of public record.

(3) Do not post anything on social media regarding a pending matter of the board.

(4) Social media posts on board matters may require the posting board member to recuse themselves from future matters.

(5) Social media posts, depending on the content, may form the basis for removal from the board if the posting brings into question the posting member's or the board's integrity or impartiality.

(6) Clarify that your opinions are your own and not the official position of either the board or the City of Albuquerque.

(7) Exercise good judgment in sharing only public information.

(8) Be aware that what you say is permanent.

(9) When in doubt, do not post/comment.

(Ord. 2025-010)

§ 2-6-1-8 TASK FORCE.

The Public Boards, Commissions, and Committees Advisory Task Force (“Task Force”) is hereby established to review the City’s Boards, Commissions, and Committees annually. The Task Force is an advisory board and shall evaluate their effectiveness, structure, and compliance with current policies and recommend any necessary amendments to the City Council and the Mayor.

(A) The Task Force shall consist of four City employees with two-year terms, appointed as follows:

- (1) Two members appointed by the Council; and
- (2) Two members appointed by the Mayor.

(B) The Task Force shall review one-third of the City’s Boards, Commissions, and Committees each year to ensure that each entity undergoes review once every three years. For each Board, Commission, and Council under review, the Task Force shall:

- (1) Conduct a thorough review of the delegation of powers and legal authority for each of the City’s Public Boards, Commissions, and Committees board;
- (2) Assess the effectiveness, structure, and roles of the City’s Boards, Commissions, and Councils;
- (3) Evaluate whether any Boards, Commissions, or Councils should be consolidated, eliminated, or modified;
- (4) Solicit feedback from City support staff and current Board, Commission, and Council members, as needed; and
- (5) Prepare a report of its findings and recommendations, including any proposed Ordinance amendments, and submit the report to the City Council and Mayor by December 31 of each year.

(C) Meeting and Procedures:

- (1) The Task Force shall convene its first meeting within forty-five (45) days after all appointments have been made. Following its initial meeting, the Task Force shall meet at least once annually.
- (2) The Task Force shall elect a Chairperson at its first meeting.

(3) The Task Force shall meet at the call of the Chair or a majority of its members.

(4) A quorum of the Task Force shall consist of a majority of its members.

(D) The Office of the City Clerk shall provide the necessary administrative support and resources for the Task Force to fulfill its duties. At least fifteen (15) days before the first meeting of the Task Force, the City Clerk's Office shall provide the Task Force with:

(1) A list of all Boards, Commissions, and Councils;

(2) Known legal authority for their creation and legal duties;

(3) The name and contact information of each staff member for each Board, Commission, or Councils; and

(4) Whether the Board, Commission, or Council is an adjudicatory body, advisory council, quasi-judicial body, an intergovernmental body, or other similar body.

(Ord. 2025-010)

§ 2-6-2-1 SHORT TITLE.

Sections 2-6-2-1 et seq. shall be known and may be cited as the "Boards, Commissions and Committees Defense and Indemnification Ordinance."

('74 Code, § 1-23-1) (Ord. 7-1991)

§ 2-6-2-2 PURPOSE.

The purpose of §§ 2-6-2-1 et seq. is to establish a policy of the city that the city will defend and indemnify members of the city's boards, commissions and committees from claims brought against such members while acting within the scope of the members' duties, responsibilities and service on city boards, commissions and committees.

('74 Code, § 1-23-2) (Ord. 7-1991)

§ 2-6-2-3 DEFINITION.

For the purpose of §§ 2-6-2-1 et seq. the following definition shall apply unless the context clearly indicates or requires a different meaning.

MEMBER. A member of any of the city's boards, commissions and committees established by Charter, ordinance or resolution.

('74 Code, § 1-23-3) (Ord. 7-1991)

§ 2-6-2-4 DEFENSE AND INDEMNIFICATION.

(A) The city shall provide a defense, including costs and attorneys' fees, for a member liability ^{when} is sought for:

(1) Any tort alleged to have been committed by the member while acting within the scope of the member's duties, responsibilities and service on a city board, commission or committee; or

(2) Any violation of property rights or any rights, privileges or immunities secured by the constitution and laws of the United States or the constitution and laws of New Mexico when alleged to have been committed by the member while acting within the scope of the member's duties, responsibilities and service on a city board, commission or committee.

(B) The city shall pay any settlement or final judgment entered against a member for:

(1) Any tort alleged to have been committed by the member while acting within the scope of the member's duties, responsibilities and service on a city board, commission or committee; or

(2) Any violation of property rights or any rights, privileges or immunities secured by the constitution and laws of the United States or the constitution and laws of New Mexico when alleged to have been committed by the member while acting within the scope of the member's duties, responsibilities and service on a city board, commission or committee.

(C) The city shall have the right to recover from a member of the city's boards, commissions and committees the amount expended by the city to provide a defense and pay a settlement agreed to by the member or to pay a final judgment if it is shown that while acting within the scope of the member's duties, responsibilities and service, the member acted fraudulently or with actual intentional malice causing bodily injury, wrongful death or property damage resulting in the settlement or final judgment.

('74 Code, § 1-23-4) (Ord. 7-1991)

40

Article 15
Open Meetings

10-15-1. Formation of public policy; procedures for open meetings; exceptions and procedures for closed meetings.

A. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. The formation of public policy or the conduct of business by vote shall not be conducted in closed meeting. All meetings of any public body except the legislature and the courts shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. Reasonable efforts shall be made to accommodate the use of audio and video recording devices.

B. All meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act. No public meeting once convened that is otherwise required to be open pursuant to the Open Meetings Act shall be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting.

C. If otherwise allowed by law or rule of the public body, a member of a public body may participate in a meeting of the public body by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

D. Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body. That notice shall include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice.

E. A public body may recess and reconvene a meeting to a day subsequent to that stated in the meeting notice if, prior to recessing, the public body specifies the date, time and place for continuation of the meeting and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held and in at least one other location appropriate to provide public notice of the continuation of the meeting. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

F. Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency or in the case of a public body that ordinarily meets more frequently than once per week, at least seventy-two hours prior to the meeting, the agenda shall be available to the public and posted on the public body's web site, if one is maintained. A public body that ordinarily meets more frequently than once per week shall post a draft agenda at least seventy-two hours prior to the meeting and a final agenda at least thirty-six hours prior to the meeting. Except for emergency matters, a public body shall take action only on items appearing on the agenda. For purposes of this subsection, "emergency" refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body. Within ten days of taking action on an emergency matter, the public body shall report to the attorney general's office the action taken and the circumstances creating the emergency; provided that the requirement to report to the attorney general is waived upon the declaration of a state or national emergency.

G. The board, commission or other policymaking body shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the policymaking body.

H. The provisions of Subsections A, B and G of this section do not apply to:

(1) meetings pertaining to issuance, suspension, renewal or revocation of a license, except that a hearing at which evidence is offered or rebutted shall be open. All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting;

(2) limited personnel matters; provided that for purposes of the Open Meetings Act, "limited personnel matters" means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee; provided further that this paragraph is not to be construed as to exempt final actions on personnel from being taken at open public meetings, nor does it preclude an aggrieved public employee from demanding a public hearing. Judicial candidates interviewed by any commission shall have the right to demand an open interview;

(3) deliberations by a public body in connection with an administrative adjudicatory proceeding. For purposes of this paragraph, "administrative adjudicatory proceeding" means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Except as otherwise provided in this section, the actual administrative adjudicatory proceeding at which evidence is offered or rebutted and any final action taken as a result of the proceeding shall occur in an open meeting;

(4) the discussion of personally identifiable information about any individual student, unless the student or the student's parent or guardian requests otherwise;

(5) meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present;

- (6) that portion of meetings at which a decision concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source is discussed and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting;
- (7) meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant;
- (8) meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body;
- (9) those portions of meetings of committees or boards of public hospitals where strategic and long-range business plans or trade secrets are discussed; and
- (10) that portion of a meeting of the gaming control board dealing with information made confidential pursuant to the provisions of the Gaming Control Act [Chapter 60, Article 2E NMSA 1978].

I. If any meeting is closed pursuant to the exclusions contained in Subsection H of this section:

- (1) the closure, if made in an open meeting, shall be approved by a majority vote of a quorum of the policymaking body; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; or
- (2) if a closure is called for when the policymaking body is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed is given to the members and to the general public.

J. Following completion of any closed meeting, the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body under Subsection G of this section as part of the minutes.

History: 1953 Comp., § 5-6-23, enacted by Laws 1974, ch. 91, § 1; 1979, ch. 366, § 1; 1989, ch. 299, § 1; 1993, ch. 262, § 1; 1997, ch. 190, § 65; 1999, ch. 157, § 1; 2013, ch. 42, § 1.

10-15-1.1. Short title.

Chapter 10, Article 15 NMSA 1978 may be cited as the "Open Meetings Act".

History: 1978 Comp., § 10-15-1.1, enacted by Laws 1979, ch. 366, § 2; 1989, ch. 299, § 2.

10-15-2. State legislature; meetings.

A. Unless otherwise provided by joint house and senate rule, all meetings of any committee or policy-making body of the legislature held for the purpose of discussing public business or for the purpose of taking any action within the authority of or the delegated authority of the committee or body are declared to be public meetings open to the public at all times. Reasonable notice of meetings shall be given to the public by publication or by the presiding officer of each house prior to the time the meeting is scheduled.

B. The provisions of Subsection A of this section do not apply to matters relating to personnel or matters adjudicatory in nature or to investigative or quasi-judicial proceedings relating to ethics and conduct or to a caucus of a political party.

C. For the purposes of this section, "meeting" means a gathering of a quorum of the members of a standing committee or conference committee held for the purpose of taking any action within the authority of the committee or body.

History: 1953 Comp., § 5-6-24, enacted by Laws 1974, ch. 91, § 2; 2009, ch. 105, § 1.

10-15-3. Invalid actions; standing.

A. No resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978. Every resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be presumed to have been taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978.

B. All provisions of the Open Meetings Act shall be enforced by the attorney general or by the district attorney in the county of jurisdiction. However, nothing in that act shall prevent an individual from independently applying for enforcement through the district courts, provided that the individual first provides written notice of the claimed violation to the public body and that the public body has denied or not acted on the claim within fifteen days of receiving it. A public meeting held to address a claimed violation of the Open Meetings Act shall include a summary of comments made at the meeting at which the claimed violation occurred.

C. The district courts of this state shall have jurisdiction, upon the application of any person to enforce the purpose of the Open Meetings Act, by injunction, mandamus or other appropriate order. The court shall award costs and reasonable attorney fees to any person who is successful in bringing a court action to enforce the provisions of the Open Meetings Act. If the prevailing party in a legal action brought under this section is a public body defendant, it shall be awarded court costs. A public body defendant that prevails in a court action brought under this section shall be awarded its reasonable attorney fees from the plaintiff if the plaintiff brought the action without sufficient information and belief that good grounds supported it.

D. No section of the Open Meetings Act shall be construed to preclude other remedies or rights not relating to the question of open meetings.

History: 1953 Comp., § 5-6-25, enacted by Laws 1974, ch. 91, § 3; 1989, ch. 299, § 3; 1993, ch. 262, § 2; 1997, ch. 148, § 1.



**ONE
ALBUQUE
RQUE**

Created by Cristobal
Rocha
Office of the City Clerk

600 2nd Street NW
Albuquerque, NM