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1       5.     The New Mexico Legislature created the Albuquerque Bernalillo  
2 Water Utility Authority (Authority) and transferred the City’s water and  
3 wastewater utility to the Authority (Laws of 2003, Chapter 437, as amended by  
4 Laws of 2005, Chapter 345, codified as Section 72-1-10 NMSA 1978).

5       6.     The Authority provides financial funding for ground water protection  
6 programs including water resource programs, utility extension, sewer  
7 rehabilitation, liquid waste pollution prevention, and hazardous material  
8 disposal education activities.

9       7.     The quality of surface water and the relationship between surface  
10 and ground water will become more critical when the Authority begins to  
11 provide surface water as its primary drinking water source. It is projected that  
12 the San Juan-Chama Surface Drinking Water Project will ensure that the  
13 Authority fulfills its objective by providing the Authority’s customers with a  
14 sustainable water supply through 2060.

15       8.     The GPAB role should be expanded to address surface water quality  
16 protection. The GPAB would be more effective in studying and advising the  
17 City, the Authority, and the County on surface and ground water protection  
18 concerns, including policies necessary to enhance protection of both surface  
19 and ground water quality.

20       9.     In order for the GPAB to effectively communicate with and advise the  
21 Authority, the Authority should have representation on the board.

22       Section 2. Sections 2-6-8-1 through 2-6-8-7 ROA 1994 are amended to read  
23 as follows:

24       “§ 2-6-8-1 SHORT TITLE.

25       This ordinance shall be known and may be cited as the ‘Water Protection  
26 Advisory Board Ordinance.’

27       § 2-6-8-2 DEFINITIONS.

28       For purposes of this ordinance, the following definitions shall apply:

29       AUTHORITY: The Albuquerque Bernalillo County Water Utility Authority.

30       AUTHORITY EXECUTIVE DIRECTOR. Executive Director of the  
31 Albuquerque Bernalillo County Water Utility Authority or his or her authorized  
32 representative.

33       BOARD. The Water Protection Advisory Board created by this ordinance.

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1 CHIEF ADMINISTRATIVE OFFICER. Chief Administrative Officer of the City  
2 of Albuquerque or his or her authorized representative.

3 CITY. City of Albuquerque, New Mexico.

4 CITY COUNCIL. Albuquerque City Council.

5 COUNTY. County of Bernalillo, New Mexico.

6 COUNTY COMMISSION. Board of County Commissioners of Bernalillo  
7 County.

8 COUNTY MANAGER. County Manager of Bernalillo County or his or her  
9 authorized representative.

10 GROUND WATER PROTECTION POLICY AND ACTION PLAN or ‘GPPAP.’  
11 The Albuquerque/Bernalillo County Ground-Water Protection Policy and  
12 Action Plan, adopted by the County in Resolution No. AR 121-93 on November  
13 23, 1993, and the City in Resolution No. R-57, Enactment No. 81-1994, on  
14 August 12, 1994.

15 MAYOR. Mayor of the City of Albuquerque or his or her authorized  
16 representative.

17 POLICY IMPLEMENTATION COMMITTEE. The joint City/Authority/County  
18 committee, co-chaired by the County Manager, the Authority Executive  
19 Director, and the Chief Administrative Officer or their designees, which is  
20 charged with implementing GPPAP or other water quality protection programs  
21 at the administrative level and providing oversight and policy direction.

22 § 2-6-8-3 PURPOSE.

23 The purpose of the Water Protection Advisory Board Ordinance is to  
24 establish a combined City, Authority, and County advisory board to:

25 (A) Study and advise the City, the Authority, and the County on surface  
26 and ground water protection concerns, including policies necessary to  
27 enhance protection of surface and ground water quality;

28 (B) Oversee implementation of the Ground Water Protection Policy and  
29 Action Plan;

30 (C) Promote consistency in City, Authority, and County actions to  
31 protect surface and ground water quality; and

32 (D) Advocate effective protection of surface and ground water quality.

33 § 2-6-8-4 BOARD CREATED.

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1 (A) Creation. There is hereby created a Water Protection Advisory  
2 Board.

3 (B) Membership. The Board shall consist of nine members, three of  
4 whom shall be appointed by the Mayor with the advice and consent of the City  
5 Council, two of whom shall be appointed by the Authority, and three of whom  
6 shall be appointed by the County Commission. One member shall be  
7 appointed jointly by the County Commission and the Mayor with the advice  
8 and consent of the City Council. Initial membership shall consist of existing  
9 Groundwater Protection Advisory Board appointed members.

10 (C) Terms. Members shall be appointed for three year terms. No  
11 member shall serve more than two consecutive terms at a time. Members  
12 whose terms expire may continue to serve until a successor member is  
13 appointed. In such case when a new member is appointed, the term shall  
14 relate back to the time of expiration of the previous term. Service for a partial  
15 term of greater than two years constitutes a term for the purpose of  
16 determining the consecutive number of terms permissible. The terms of the  
17 members of the Board shall be staggered so that three members' terms shall  
18 expire each calendar year. The jointly-appointed member shall be appointed  
19 for a three-year term. Existing Groundwater Protection Advisory Board  
20 members shall continue to serve on the Water Protection Advisory Board until  
21 their terms expire.

22 (D) Vacancies. Vacant positions occurring as a result of an expired term  
23 shall be filled by the entity that appointed the outgoing member. Vacant  
24 positions occurring for reasons other than an expired term shall be filled by  
25 the entity that appointed the departing member, with the replacement member  
26 serving for the remainder of the unexpired term.

27 (E) Qualifications.

28 (1) Board members shall represent the public interest and have a  
29 commitment to surface or ground water protection. Due to the complexity of  
30 the issues involved in surface and ground water protection, members  
31 preferably should have some technical proficiency in surface or ground water  
32 matters. Also, because surface and ground water protection concerns may  
33 vary by geographic location and type of water and wastewater systems used,

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1 members should be representative of the diverse geographic range of the City  
2 and the County.

3 (2) City-appointed members shall be residents of the City and  
4 County-appointed members shall be residents of the County. The jointly-  
5 appointed member shall be a resident of the County. Authority-appointed  
6 members shall reside within the Authority service area.

7 (3) No person employed on a full time basis by either the City , the  
8 Authority, or the County shall be appointed to the Board. No elected City or  
9 County official, and no member of the immediate family of an elected City or  
10 County official, shall be appointed to the Board.

11 (F) Removal. A member of the Board may be removed from office by the  
12 appointing entity for any one or more of the following reasons.

13 (1) The member has been absent from three consecutive  
14 meetings, unless the absence was excused by the Chair. For this purpose,  
15 being absent is defined as not being in attendance 75% or more of the  
16 duration of each officially called meeting.

17 (2) The member has been absent, whether excused or not, from  
18 more than 50% of the meetings during any twelve consecutive months.

19 (3) The member is incapacitated, neglectful of duty, or commits  
20 malfeasance in office, as determined by the appointing entity.

21 § 2-6-8-5 ORGANIZATION; MEETINGS.

22 (A) Officers. Annually, in the first quarter of the calendar year, the Board  
23 shall elect a Chair, Vice-Chair, and any other officers which the Board deems  
24 appropriate. Officers shall be elected by vote of the majority of the Board  
25 members. Officers shall be elected for one-year terms. No officer shall serve  
26 in the same position for more than two consecutive terms at a time. Existing  
27 Groundwater Protection Advisory Board officers shall continue to serve on the  
28 Water Protection Advisory Board until their term expires.

29 (B) Meetings.

30 (1) The Board shall hold meetings at least once a month, unless a  
31 quorum is unavailable despite best efforts to schedule a convenient meeting  
32 or for other good reason, to meet workload demands during the initial  
33 implementation of GPPAP. Should the workload diminish sufficiently, as

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1 determined by the Board, the Board may reduce its meeting schedule to no  
2 less than quarterly. The Board shall meet a minimum of four times a year.

3 (2) All meetings shall be in compliance with the provisions of the  
4 Open Meetings Act.

5 (C) Conduct of Business. Unless the Board adopts other written rules to  
6 govern its proceedings, the Board shall conduct business according to  
7 Robert's Rules of Order, which the Board may modify in writing as it deems  
8 appropriate. A quorum of five members shall be necessary to transact  
9 business, adopt motions, or conduct voting. Actions may be decided by a  
10 majority of the members present.

11 (D) Records. A record shall be kept of all meetings of the Board,  
12 including the vote of each member on each action. The records shall be filed  
13 with the City and County Clerks and shall be made available for public  
14 inspection at reasonable times.

15 (E) Conflict of Interest.

16 (1) Any member who has a conflict of interest regarding a policy,  
17 decision, or determination before the Board or one of its committees or work  
18 groups on which the member serves shall, as soon as possible after the  
19 conflict of interest becomes apparent, disclose the nature of the conflict to  
20 each of the other members voting on the matter. Disclosures shall be  
21 recorded. Disclosure of a conflict of interest shall not disqualify a member  
22 from participating in any discussion, debate, or vote on the matter unless:

23 (a) A majority of the remaining members voting on the  
24 matter determines that, for reasons of propriety, the member should not  
25 participate or vote on the matter; or

26 (b) The member voluntarily disqualifies himself or herself.

27 (2) For purposes of this ordinance, a CONFLICT OF INTEREST  
28 means that the member, member's spouse, or member's minor child has an  
29 adverse or financial interest in the outcome of any policy, decision, or  
30 determination before the Board or one of its committees or work groups on  
31 which the member serves.

32 § 2-6-8-6 STAFF.

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1 (A) The Chief Administrative Officer, the Executive Director, and the  
2 County Manager shall provide staff and resources, including the services of  
3 the Policy Implementation Committee, as necessary and appropriate to assist  
4 the Board.

5 (B) The City, the Authority, and the County may jointly fund a contract  
6 for professional, technical, or administrative services to be supplied to the  
7 Board or the Policy Implementation Committee as necessary to meet their  
8 responsibilities. In the event of a jointly funded contract, each government's  
9 ordinances and regulations on approval of contracts for these services shall  
10 apply only to the amount of the contract that will be paid by the government,  
11 after any reimbursement from the other government, and not to the total  
12 contract amount.

13 **§ 2-6-8-7 DUTIES AND POWERS OF THE BOARD.**

14 (A) There is hereby delegated to the Board the following power and  
15 authority:

16 (1) Study. The Board shall study means of protecting and  
17 improving surface and ground water quality.

18 (2) Advisory Functions. The Board shall advise the Mayor and the  
19 City Council, the Authority, the County Commission, the Environmental  
20 Planning Commission and the County Planning Commission, and City,  
21 Authority, and County staff on protection of the surface and ground water,  
22 including recommended policies on surface and ground water protection  
23 measures; ordinances appropriate for effecting such policies, based on  
24 GPPAP; the adequacy of surface and ground water protection staffing,  
25 budgets and progress; and other appropriate matters.

26 (3) Oversight Functions. The Board shall oversee the  
27 implementation of GPPAP; monitor and review City, Authority, and County  
28 actions to protect the surface and ground water; foster the continued  
29 cooperation of the City, Authority, and County in surface and ground water  
30 protection; and promote consistency in City, Authority, and County surface  
31 and ground water protection measures.

32 (4) Public Education and Advocacy. The Board shall engage in  
33 public education and advocacy for the effective protection of surface and

1 ground water quality by public officials as well as residents of the City, the  
2 Authority service area, the County, and their environs.

3 (5) Reports. The Board shall report at least annually to the  
4 Authority, County Commission and the Mayor and the City Council on its  
5 activities, progress made in implementing GPPAP, and any recommendations  
6 for additional policies or ordinances to protect surface and ground water  
7 quality. At least every five years, the Board shall undertake a comprehensive  
8 review and evaluation of the effectiveness of GPPAP and recommend any  
9 necessary changes to it.

10 (6) Other Duties, Responsibilities, and Powers. The Board shall  
11 have other duties, responsibilities, and powers as may be jointly delegated to  
12 it by the City Council, the Authority, and the County Commission.

13 (7) Comprehensive Surface Water Quality Assessment and  
14 Implementation Program. The Board shall work with City, County, and  
15 Authority staff in outlining and developing programs for surface water in  
16 addition to existing ground water protection programs. The Board shall work  
17 with staff in developing a timeline for implementation of the activities  
18 including costs, responsibilities and other issues related to surface water  
19 protection.

20 (B) Committees and Work Groups. The Board may form committees to  
21 assist the Board with its assigned duties, responsibilities, and powers.  
22 Committees shall consist of members of the Board selected by the Board. The  
23 Board also may form advisory work groups to carry out specific assignments  
24 that will assist the Board in performing its duties and responsibilities. The  
25 Board may establish the specific assignments and set guidelines and  
26 timetables for the work group in performing its work. At least one Board  
27 member, selected by the Board, shall serve on a work group. The Board may  
28 invite members of the general public, City, Authority, or County staff, or  
29 elected officials to serve on its work groups as it deems appropriate.

30 (C) Relationship of the Board to the Policy Implementation Committee.  
31 The Board may take an advisory position on a matter that is different from the  
32 advisory position of the Policy Implementation Committee. The Board,  
33 however, shall not convey its advice to another governmental body without

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1 also conveying the different position of the Policy Implementation Committee  
2 on the same matter.”

3 Section 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
4 clause, word or phrase of this ordinance is for any reason held to be invalid or  
5 unenforceable by any court of competent jurisdiction, such decision shall not  
6 affect the validity of the remaining provisions of this ordinance. The Council  
7 hereby declares that it would have passed this ordinance and each section,  
8 paragraph, sentence, clause, word or phrase thereof irrespective of any  
9 provision being declared unconstitutional or otherwise invalid.

10 Section 4. COMPILATION. This ordinance shall be incorporated in and  
11 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

12 Section 5. EFFECTIVE DATE. This ordinance shall take effect five days  
13 after publication by title and general summary.

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