CITY of ALBUQUERQUE TWENTY FIFTH COUNCIL

COUNCIL BILL NO. _____R-23-176_ ENACTMENT NO. **SPONSORED BY: Dan Lewis** 1 RESOLUTION 2 ESTABLISHING A MORATORIUM FOR THE ALBUQUERQUE-BERNALILLO 3 COUNTY AIR QUALITY CONTROL BOARD TO ACT UNDER CHAPTER 9. ARTICLE 5, PART 1 ROA 1994, THE JOINT AIR QUALITY CONTROL BOARD 4 5 **ORDINANCE UNTIL FEBRUARY 1, 2024.** 6 WHEREAS, in R-2023-044 Council declared that Petition 2022-3 before the 7 Albuquerque-Bernalillo County Air Quality Board ("Board") could be harmful to 8 the welfare of the City; and 9 WHEREAS, the City Council declares the proposed rules in the record for 10 Petition 2022-3 addresses quality of life impacts absent scientific evidence that there is a nexus to air pollution by identifying the quantities and durations of air Bracketed/Underscored Material] - New contaminants that may, with reasonable probability, cause injury, contrary to New Mexico case law as held in Southwest Organizing Project v. Albuquerque-14 Bernalillo Cty. Air Quality Control Bd., 2021-NMCA-005; and WHEREAS, the City Council declares the proposed rules in the record for Petition 2022-3 purport to impact on industrial development by design and not as a consequence of preventing or abating air pollution, contrary to New Mexico case law as held in Service Co. of New Mexico v. New Mexico Environmental Imp. Bd., 89 N.M. 223, 549 P.2d 638 (Ct. App. 1976); and WHEREAS, the City Council is considering making changes to Sections 9-5-1-1 to -99 and needs time to carefully deliberate about further action; and 本 22 WHEREAS, the intended purpose of the resolution is to advance the health, safety and welfare of the public and to further goals and policies adopted by the 23 24 Council. 25 BE IT RESOLVED BY THE COUNCIL, GOVERNING BODY OF THE CITY OF 26 **ALBUQUERQUE:**

- New	Deletion
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SECTION '	1. AL	BUQUERQU	E-BERNALIL	LO	COUNTY	AIR	QUALITY
CONTROL BOA	ARD. T	he Albuquerq	ue-Bernalillo	Cou	ınty Air Qu	ality B	oard shal
have no authori	ity to,	and shall not	make any re	gulat	ion or stan	dard t	o, address
quality of life in	mpact	s absent scie	entific evider	nce t	hat there i	s a ne	xus to air
pollution by ide	entifyi	ng the quanti	ties and dur	atior	ns of air co	ntami	nants that
may, with reason	onable	probability,	cause injury	; or a	adopt or ar	nend a	a standard
or regulation w	hereb	y the impact	on industrial	l dev	elopment i	s by d	lesign and
not a conseque	ence of	preventing o	r abating air	pollu	ution until F	ebrua	ry 1, 2024

SECTION 2. CITY OF ALBUQUERQUE. The City of Albuquerque shall not use its resources to facilitate any action by the Board to make, adopt, or amend any regulation or standard described in Section 1 until February 1.

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