

O-2015-006

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**CITY OF ALBUQUERQUE  
CITY COUNCIL**

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**INTEROFFICE MEMORANDUM**

**TO: Richard J. Berry, Mayor**

**FROM: Jon K. Zaman, Director of Council Services**

*Jon 2/25/15*

**SUBJECT: Transmittal of Legislation**

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Transmitted herewith is Bill No. F/S O-15-38 Amending Chapter 9, Article 4, Part 1 ROA 1994, The Police Oversight Ordinance (Benton), which was passed at the Council meeting of February 18, 2015, by a vote of 6 FOR AND 2 AGAINST.

**Against: Harris, Jones  
Excused: Lewis**

In accordance with the provisions of the City Charter, your action is respectfully requested.

JKZ:dm  
Attachment  
2/20/15

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ALBUQUERQUE CITY CLERK

2015 MAR -5 PM 2:37

**CITY of ALBUQUERQUE  
TWENTY-FIRST COUNCIL**

COUNCIL BILL NO. F/S O-15-38

ENACTMENT NO. 0.2015.006

SPONSORED BY: Isaac Benton

**ORDINANCE**

**AMENDING CHAPTER 9, ARTICLE 4, PART 1 ROA 1994, THE POLICE  
OVERSIGHT ORDINANCE.  
BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
ALBUQUERQUE:**

**SECTION 1. Subsection (3)(b) of § 9-4-1-4 relating to the POB’s audit  
function for civilian police complaints is amended as follows:**

**“(b) POB Audits; Access to Files. The POB may, by majority vote,  
perform an annual audit, or direct that an audit be performed, on a random  
sample of up to 10% of individual civilian police complaint investigations  
involving allegations of use of force, or in exceptional circumstances, for the  
purpose of promoting an enhanced measure of quality assurance in the most  
challenging cases the POB may, by a vote of two-thirds (2/3) of the members  
of the POB, perform an audit, or direct that an audit be performed, on any  
individual Citizen Police Complaint Investigation completed by the  
Administrative Office. For purposes of its audit function, the POB shall have  
full access to investigation files and may subpoena such documents and  
witnesses as relevant to its audit function. In its review of the investigation  
file, the POB may review *Garrity* material or confidential material only in a  
closed session as permitted under the New Mexico Open Meetings Act. The  
POB shall maintain the confidentiality of any *Garrity* material or records that  
are made confidential by law and is subject to the same penalties as the  
custodian of those records for violating confidentiality requirements. In  
addition to any other penalty, any POB member or other person who violates  
the confidentiality provisions of this section shall be removed from the POB,  
and shall be subject to prosecution for a misdemeanor subject to the penalty**

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1 provisions set forth in § 1-1-99. Access to information that could be construed  
2 to be covered by *Garrity* will be made available to the POB only by application  
3 in writing, and by majority vote by the POB.”

4 SECTION 2. Subsection (F) of § 9-4-1-5 relating to Orientation and Training  
5 of Police Oversight Board Members is amended as follows:

6 “(F) Orientation and Training. Upon appointment or reappointment  
7 POB members shall complete an orientation and training program consisting  
8 of the following:

9 (1) Required Orientation. Prior to participation in any  
10 meeting of the POB, a newly appointed member must first:

11 (a) Be trained by the CPOA staff or CPOA legal  
12 counsel on CPOA and APD rules, policies, and procedures;  
13 and

14 (b) Attend at least one POB meeting as an observer  
15 (except initial appointees).

16 (2) Required Training. Each POB member shall complete a  
17 training program within the first six months of the member’s appointment that  
18 consists, at a minimum, of the following:

19 (a) Completion of the APD Civilian Police Academy –  
20 for purposes of this training requirement, APD may offer an abbreviated, two-  
21 day weekend Civilian Policy Academy available only to POB members;

22 (b) Civil Rights training, including the Fourth  
23 Amendment right to be free from unreasonable searches and seizures,  
24 including unreasonable use of force;

25 (c) At least two (2) APD ride-alongs;

26 (d) Annual firearms simulation training;

27 (e) Internal Affairs training;

28 (f) Training provided to APD officers on use of force,  
29 including a review and familiarization with all APD policies relating to use of  
30 force, and including policies related to APD’s internal review of force  
31 incidents;

32 (g) Equity and Cultural Sensitivity training;

33 (h) Training on the 2014 DOJ Settlement Agreement

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1 with the City of Albuquerque (or any subsequent agreements), and Findings  
2 Letter of April 10, 2014 (or any subsequent findings letters);

3 (i) Training on this Police Oversight Ordinance;

4 (j) Training on state and local laws regarding public  
5 meetings and the conduct of public officials; and

6 (k) A briefing that identifies and explains the  
7 curriculum of all training received or to be received by APD officers, including  
8 any outside training not provided by the City.

9 (3) Required On-Going Training. POB members shall be  
10 provided with eight hours of annual training on any changes in law, policy, or  
11 training in the areas outlined under subsection 2 above, as well as  
12 developments in the implementation of the 2014 DOJ Settlement Agreement  
13 (or any subsequent agreements) until such time as the terms of the agreement  
14 are satisfied. POB members shall also participate in at least two police ride-  
15 alongs for every six-months of service on the POB.

16 (4) Recommended Training. POB members are encouraged  
17 to attend conferences and workshops relating to police oversight, such as the  
18 annual NACOLE conference at City expense depending on budget  
19 availability.”

20 SECTION 3. Subsection (l) of § 9-4-1-5 relating to Comment at Police  
21 Oversight Board Meetings is amended as follows:

22 “(l) Meetings. The POB shall conduct regularly scheduled public  
23 meetings in compliance with the New Mexico Open Meetings Act, with a  
24 prepared agenda that is distributed in advance to the Mayor, City Council,  
25 Police Chief, and City Attorney. Each POB meeting will begin with public  
26 comments. Only the regularly scheduled monthly meetings and special  
27 meetings held pursuant to submission of petitions will be televised live on the  
28 appropriate government access channel. All other meetings of the POB shall  
29 be videotaped and aired on the appropriate government access channel;  
30 however, there is no requirement for providing live television coverage.

31 1. Public Comment. The POB shall allow general public  
32 comment at each of its meetings, and the POB shall also allow comment on  
33 each of its agenda items other than Citizen Police Complaints. The

1 complainant or complainant's authorized representative in a Citizen Police  
2 Complaint will be provided with a minimum of five minutes to address the POB  
3 relating to the complaint and investigation."

4 SECTION 4. Section 9-4-1-7 relating to Qualifications and Selection of the  
5 CPOA Executive Director is amended as follows:

6 "§ 9-4-1-7 CPOA DIRECTOR QUALIFICATIONS, SELECTION, RETENTION  
7 AND EVALUATION

8 (A) Qualifications for the position of Director shall minimally  
9 include the requirement of a law degree and experience in criminal  
10 investigations.

11 (B) The Director will be a full-time contractual city employee to be  
12 selected, removed, or reviewed as follows:

13 (1) The POB, through CPOA staff, shall accept applications  
14 from candidates. The POB shall review the applications and interview  
15 candidates, and submit to the City Council a ranked list of the three  
16 candidates that it finds to be the best qualified to be the Director and the City  
17 Council shall appoint the Director from the three by majority vote. The POB's  
18 recommendation to Council shall be based on the candidates' integrity,  
19 capability for strong management and abilities in investigations, law,  
20 management analysis, public administration, criminal justice administration or  
21 other closely related fields.

22 (2) In lieu of recommending three candidates to the  
23 Council, the POB may recommend to the Council the reconfirmation of the  
24 incumbent Director. Should the Council decline to reconfirm the incumbent  
25 Director, the Council President shall notify the POB that it needs to provide  
26 the Council with three alternate candidates pursuant to the provisions of  
27 Subsection (B)(1). Should the Director not be reconfirmed, the current  
28 Director may continue to serve in the same capacity until a new Director is  
29 selected and approved by the City Council. If for any reason there is a period  
30 of time during which there is no Director, the City Council may appoint a  
31 temporary Director of its choosing by a majority vote. A temporary Director  
32 shall serve in that capacity only for a period not to exceed six months.

33 (3) The term of the Director shall be for three (3) years.

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1 Once confirmed, the Director may be removed only upon: 1) a  
2 recommendation of removal to the City Council by the affirmative vote of two-  
3 thirds (2/3) of the members of the POB; and 2) acceptance of the POB's  
4 recommendation by a simple majority vote of the City Council.

5 (C) The POB shall annually review the performance of the Director  
6 taking into consideration the obligations and duties prescribed by this  
7 Ordinance and the performance of the Administrative Office.”

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

15 SECTION 6. COMPILATION. The ordinance amendment prescribed by  
16 SECTIONS 1, 2, 3 and 4 shall amend, be incorporated in and made part of the  
17 Revised Ordinances of Albuquerque, New Mexico, 1994.

18 SECTION 7. EFFECTIVE DATE. This ordinance shall take effect five days  
19 after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 18th DAY OF February, 2015  
2 BY A VOTE OF: 6 FOR 2 AGAINST.

3  
4 **Against: Harris, Jones**

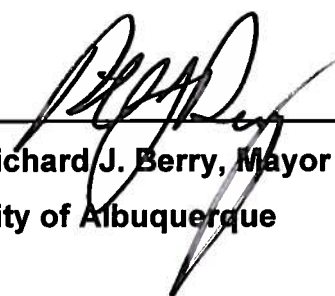
5 **Excused: Lewis**

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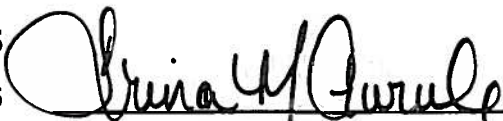
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9 **Rey Garduño, President**  
10 **City Council**

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13 APPROVED THIS 4th DAY OF March, 2015

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16 **Bill No. F/S O-15-38**

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20 **Richard J. Berry, Mayor**  
21 **City of Albuquerque**

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24 **ATTEST:**

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27 **Trina M. Gurule, Acting City Clerk**

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# Health City Sun

## AFFIDAVIT OF PUBLICATION

**CITY of ALBUQUERQUE  
 TWENTY-FIRST COUNCIL  
 COUNCIL BILL NO.  
 F/S O-15-38  
 ENACTMENT NO. O-2015-006  
 SPONSORED BY: Isaac  
 Benton**

**ORDINANCE**  
 AMENDING CHAPTER  
 9, ARTICLE 4, PART 1  
 ROA 1994, THE POLICE  
 OVERSIGHT ORDINANCE.  
 BE IT ORDAINED BY  
 THE COUNCIL, THE  
 GOVERNING BODY OF THE  
 CITY OF ALBUQUERQUE.  
 HCS Pub. March 13, 2015

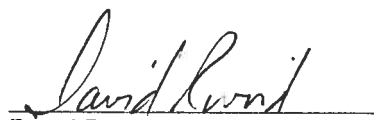
State of New Mexico )  
 ) ss  
 County of Bernalillo )

**David Rivord**, being duly sworn declares and says he is the **Publisher** of the Health City Sun, a weekly newspaper published and having a general paid circulation in the State of New Mexico; that the said Health City Sun was entered in the post office at Albuquerque as second class mail matter on September 5, 1930, and has met all requirements of a legal newspaper under the laws of the State of New Mexico.

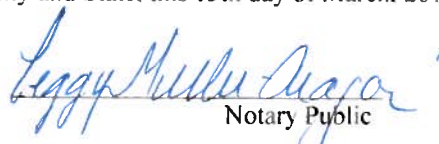
Affiant further states that this newspaper is duly qualified to publish Legal Notices or advertisements within the meaning of Section 14-11-4 of the New Mexico Statutes annotated (1978).

Affiant further states that the publication, a copy of which is hereto attached, was published in said paper in the regular and entire issue of each number of the paper, during the period and time of publication, and that the notice was published in the newspaper proper and not in a supplement thereof for 1 week, the first publication being in the issue of the 13th day of March, 2015, and the last publication being in the issue of the 13th day of March, 2015.

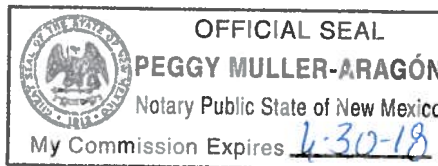
Affiant further states that the costs of publishing said legal notice have been paid, or have been assessed as court costs in the case numbered.

  
 \_\_\_\_\_  
**David Rivord, Publisher**

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 13th day of March, 2015.

  
 \_\_\_\_\_  
 Notary Public

My Commission Expires 4-30-18



Office Address: 6300 Montano, NW, 2<sup>nd</sup> floor  
 Mailing Address: P.O. Box 67560, Albuquerque, NM 87193  
 Phone: 505-242-3010/Fax: 505-842-5464

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 2015 MAR 18



# Health City Sun

## AFFIDAVIT OF PUBLICATION

**CIUDAD de ALBUQUERQUE**  
**VIGÉSIMO PRIMER CONCEJO**  
**PROYECTO DE LEY**  
**MUNICIPAL NÚM. F/S O-15-38**  
**PROMULGACIÓN NÚM.**  
**O-2015-006**  
**PATROCINADO POR:**  
**Isaac Benton**  
**ORDENANZA**  
 PARA ENMENDAR EL  
 CAPÍTULO 9, ARTÍCULO  
 4, PARTE 1 DE ROA  
 (ORDENZAS REVISADAS  
 DE ALBUQUERQUE) DE  
 1994, ORDENANZA PARA  
 LA SUPERVISIÓN DE LAS  
 FUERZAS POLICIALES.  
 ASÍ LO RESUELVE EL  
 CONCEJO, ÓRGANO  
 GOBERNANTE DE LA  
 CIUDAD DE ALBUQUERQUE:  
 HCS Pub. March 13, 2015


State of New Mexico     )  
   ) ss  
 County of Bernalillo     )

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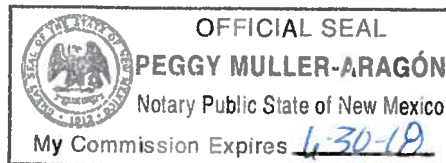
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 \_\_\_\_\_  
**David Rivord, Publisher**

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 13th day of March, 2015.

  
 \_\_\_\_\_  
 Notary Public

My Commission Expires 4-30-18



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 ALBUQUERQUE COUNTY CLERK  
 2015 MAR 18 AM 11:46:46