



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

# **Administrative Code**

Effective January 1, 2024

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## **Bay Area Air Quality Management District Administrative Code**

### **Section One. Title and Purpose**

#### 1.1 Title

This Code shall be known as the “Bay Area Air Quality Management District Administrative Code” or “Air District Administrative Code.”

#### 1.2 Purpose and Overview

This Code sets forth the governance, administrative, and financial provisions for the Bay Area Air Quality Management District (hereafter “Air District”), the method of appointment of Air District employees, and procedures for the operation and management of the Air District.

The Air District is an independent special district created, pursuant to Chapter 4 of Part 3 of Division 26 of the California Health and Safety Code, to regulate stationary sources of air pollution in the nine counties that surround San Francisco Bay: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma counties.

#### 1.3 Adoption and Amendment of the Air District Administrative Code

This Code is adopted and may be amended by ordinance of the Board of Directors, after review and recommendation by the Finance and Administration Committee. The Board of Directors shall ensure that the Air District Administrative Code is reviewed at least every five (5) years, and the Board of Directors shall approve amendments, as necessary.

#### 1.4 Air District Seal

The Air District may provide for and adopt an official seal. The seal of the Air District shall be used only for purposes directly connected with the official business of the Air District.

#### 1.5 Non-Discrimination

The Air District is committed to non-discrimination and equity throughout the organization and in carrying out the agency’s mission. The Board of Directors shall adopt by resolution a Non-Discrimination Policy to articulate this commitment and to ensure compliance with all legal obligations, including without limitation the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, Title VI of the Civil Rights Act of 1964, and California Government Code Section 11135. The Air Pollution Control Officer (“APCO”) shall implement this Non-Discrimination Policy and shall ensure that the Policy is communicated in a transparent fashion to Air District staff and to the public and is posted on the Air District’s website.

## **Section Two. Board of Directors**

### **2.1 Appointment**

The Board of Directors is the governing body of the Air District and consists of members appointed pursuant to Article 3 of Chapter 4 of Part 3 of Division 26 of the Health and Safety Code. (Health and Safety Code section 40220 *et seq.*)

### **2.2 Terms**

Each member of the Board of Directors appointed by a board of supervisors shall hold office for a term of four years and until the appointment and qualification of their successor, and each member appointed by a city selection committee shall hold office for a term of two years and until the appointment and qualification of their successor. (Health and Safety Code section 40222.)

### **2.3 Quorum**

A majority of the members of the Board of Directors constitute a quorum for the transaction of business. The Board may meet only when a quorum is present. (Health and Safety Code section 40226.)

### **2.4 Action**

Unless otherwise specified in state law or this Administrative Code, an action of the Board of Directors shall require the presence of a quorum and the affirmative vote of a majority of the total membership of the Board. The Board may act by ordinance, resolution, or motion. (Government Code section 54952.6; Health and Safety section 40226.)

### **2.5 Rules of Procedure**

The Board of Directors shall adopt Rules of Procedure to govern the conduct of its meetings. The Board of Directors may amend those Rules to conform to changes in law or as otherwise needed.

### **2.6 Board of Directors Meetings**

#### **(a) Location**

All regular meetings of the Board of Directors and all regular meetings of Board Committees shall be held at the offices of the Air District located at 375 Beale Street, San Francisco, California.

#### **(b) Regular Meeting Time**

The Board of Directors shall adopt annually by resolution a schedule of regular meetings for each calendar year. Regular meetings of the Board of Directors shall be held on the first Wednesday of each month, beginning at the hour of 10:00

a.m., and at additional dates and times as specified in the annual meeting schedule adopted by the Board.

(c) Special Meetings

A special meeting may be called whenever the business of the Air District may require it. A special meeting may be called at the request of the Chairperson of the Board of Directors in consultation with the APCO, or at the request of a majority of the members of the Board of Directors. Whenever a special meeting is called, notice shall be given to each member of the Board of Directors at least twenty-four (24) hours in advance, and to others as required by law, stating the date and hour of the meeting, the location of the meeting, and the purpose for which the meeting is called. No business shall be transacted at the meeting except as stated in the notice. (Government Code section 54956.)

(d) Use of Remote Teleconferencing

The Board of Directors shall hold regular meetings at the location specified in subsection 2.6(a) above. The Board of Directors may hold any meeting using remote teleconferencing technology in accordance with Government Code sections 54953(b) and (f), with the exception that remote teleconference attendance shall not be allowed (except for “just cause” or “emergency circumstances” remote teleconferencing where authorized by Government Code section 54953(f)) for a meeting at which the Board of Directors is to adopt the budget or is to hold a public hearing for adoption of a rule or regulation, or upon special circumstances at the call of the chair.

As a courtesy to and for the convenience of members of the public, the Board of Directors may provide a webcast or streaming service for any meeting to allow members of the public to watch or participate in the meeting virtually. By choosing to participate in a meeting virtually, members of the public accept the risk that in the event of a disruption to the webcast or streaming service, the Board will continue with its meeting. (Government Code sections 54950 *et seq.*)

## 2.7 Officers

(a) Officers; Election, Removal

The Board of Directors shall elect a Chairperson and Vice-Chairperson. The Board of Directors shall elect these Officers in November prior to the commencement of the Officers’ terms, or as otherwise necessary to fill a vacancy. The Officers shall serve at the pleasure of the Board of Directors and may be removed by a two-thirds vote of the membership of the Board of Directors held at a regular meeting.



(b) Terms of Officers

The Chairperson and Vice-Chairperson shall serve two-year terms, which shall begin on January 1 of each even-numbered year. Members of the Board of Directors elected to serve as Chairperson and Vice-Chairperson for the one-year 2024 term under the predecessor to this Code shall serve in those positions for the two-year 2024-2025 term under this Code. No member of the Board of Directors may serve more than four years in any one office.

(c) Officer Rotation

The Officer positions shall be rotated among the members of the Board of Directors in a manner to assure participation in the affairs of the Air District from a wide representation of the membership. In selecting members to serve as Officers, the Board of Directors shall consider and balance representation by members appointed by Boards of Supervisors, members appointed by City selection committees, members from large counties, and members from small counties, as well as geographic representation from all parts of the Bay Area, although the Board need not follow any strict rule of rotation.

(d) Chairperson

The Chairperson's duties include without limitation:

- (1) Presiding over the meetings of the Board of Directors.
- (2) Signing all ordinances and resolutions adopted by the Board of Directors while the Chairperson presides.
- (3) Appointing members of committees of the Board of Directors.

(e) Vice-Chairperson

The Vice-Chairperson shall have the following duties:

- (1) In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall preside over the meeting and shall sign ordinances and resolutions adopted at the meeting.
- (2) In the event that the Chairperson is unable, for whatever reason, to fulfill their term of office, the Vice-Chairperson shall succeed the Chairperson.

2.8 Non-interference in administration affairs

The Board of Directors and its members shall deal with the administration of the Air District only through the APCO, except for the purpose of inquiry, and neither the Board of Directors nor any member thereof shall give orders or direction to any subordinates of the APCO, without the express consent of the APCO. The APCO shall take their orders and instructions from the Board of Directors only when sitting in a duly held meeting of

the Board, and no individual member of the Board of Directors shall give any orders or instructions to the APCO.

Except as expressly provided in this Administrative Code, the Board of Directors, and its members, shall have no power or authority over, nor shall they dictate, suggest, or interfere with respect to, any appointment, promotion, compensation decision, disciplinary action, contract or requisition for purchase, or other administrative action or recommendation of the APCO.

Violation of this section of the Administrative Code constitutes official misconduct.

## 2.9 Compensation for attendance at meetings

Each member of the Board of Directors shall be entitled to compensation for attendance at meetings as follows:

### (a) Meetings eligible for Compensation

- (1) Meetings of the Board of Directors and of Board Committees; and
- (2) Other meetings while on official business of the Air District as authorized under the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

### (b) Attendance requirements

A member of the Board of Directors shall be entitled to compensation for attending a meeting of the Board or a Board Committee only if:

- (1) The member arrives for the meeting no later than 30 minutes after the scheduled beginning of the meeting; and
- (2) The member is present at the meeting for at least three quarters ( $\frac{3}{4}$ ) of the total meeting time, including closed session time.

### (c) Amount of compensation

Members of the Board of Directors shall be entitled to compensation of one hundred dollars (\$100) per meeting for attendance at meetings under this Section 2.9, up to a maximum of two hundred dollars (\$200) per day; plus, compensation for active transportation travel calculated as specified in Paragraph (d) below. No Board member may receive compensation of more than six thousand dollars (\$6,000) in any calendar year for meeting attendance pursuant to this Section 2.9.

### (d) Active Transportation Calculation

Compensation for active transportation travel pursuant to Paragraph (c) above shall be calculated as follows:

(1) \$1.56 per mile for travel by personal/private non-motorized bicycle or similar nonmotorized pedal-operated vehicle; and

(2) \$1.50 per mile for travel on foot or by wheelchair.

For multi-modal travel, compensation shall be provided only for miles traveled using the alternative transportation travel modes specified in this Paragraph (d). Members shall provide to the Clerk of the Boards the date of travel, starting and ending points, and purpose of travel when claiming compensation, and must document the distance traveled with a printout from a map website such as Google Maps.

#### 2.10 Expense Reimbursement

Members of the Board of Directors are entitled to receive reimbursement for actual and necessary expenditures incurred in connection with the performance of their official duties. Pursuant to Government Code section 53232.2, the Board of Directors shall adopt a written Meeting Compensation and Expense Reimbursement Policy, at a public meeting, specifying the types of occurrences that qualify a member to receive reimbursement for expenses relating to travel, meals, lodging, and other actual and necessary expenses. The Expense Reimbursement Policy shall also apply to other boards and councils of the Air District as specified in this Code. Members of the Board of Directors and other covered boards and councils may receive reimbursement only as provided in the Policy and subject to the Policy's requirements. Members shall comply with the limits and reporting requirements of federal, state, and local law.

#### 2.11 Report of County Populations

Appointments to the Board of Directors are determined by the population of the counties within the geographical jurisdiction of the Air District at the time of appointment according to the provisions of Health and Safety Code sections 40221 and 40221.5. The Clerk of the Boards shall report to the Board of Directors each year the population of each county included, in whole or in part, within the Air District's jurisdiction according to the latest estimate prepared by the Demographic Research Unit of the Department of Finance. For counties for which only a portion of the county is included within the Air District's jurisdiction, the Clerk of the Boards shall report the population of that portion within the Air District's jurisdiction. (Health and Safety Code section 40220.5.) The Clerk of the Boards shall report the populations promptly after the Demographic Research Unit publishes its estimates.

### **Section Three. Committees of the Board of Directors**

#### 3.1 Purpose

The Board of Directors establishes standing committees to advise and make recommendations to the Board on matters within the scope of the committee's

jurisdiction. In addition to the functions specified herein, any committee may also consider additional matters as referred by the Board of Directors. Except where explicitly authorized in this Code, the standing committees shall not have authority to approve any action or policy on behalf of the Board of Directors, to alter, change, or reverse any action or policy established by the Board of Directors, or to authorize the expenditure of any funds.

In the normal course of business, matters will be considered by the relevant committee(s) before being considered by the Board of Directors. However, the Board of Directors may take up any matter directly, without previous consideration by a committee, when necessary and appropriate.

### 3.2 Standing Committees

The standing committees of the Board of Directors are the following:

(a) Community Equity, Health, and Justice Committee

The Community Equity, Health, and Justice Committee advises and makes recommendations to the Board of Directors regarding equitable and inclusive actions the Air District takes to create a healthy breathing environment and clean air for the people of the Bay Area, regardless of race, ethnicity, age, gender identity, economic status, national origin, immigration status, ability, sexual orientation, or other distinguishing characteristics. The Committee oversees the development of policies for both internal and external operations impacting the Bay Area. Internal operations include applying an equity lens to programs, policies, and procedures related to staffing, recruitment, promotions, inclusive workplace practices, contracting for capital projects and services, and ongoing racial equity training. The committee prioritizes traditionally marginalized and underserved communities for investment opportunities to ensure communities overburdened by air pollution receive the programmatic, policy, and investment resources most needed.

The Community Equity, Health, and Justice Committee also advises and makes recommendations to the Board of Directors regarding the overall direction of the Air District's community engagement activities, civil rights compliance, and the implementation of Assembly Bill 617 (Stats. 2017, Ch. 136), including community selection and approval of Community Emission Reduction Plans. It is also the lead committee interacting and partnering with the Community Advisory Council. The Committee also advises and makes recommendations to the Board of Directors regarding grants related to matters within its jurisdiction.

(b) Finance and Administration Committee

The Finance and Administration Committee advises and makes recommendations to the Board of Directors relating to the administration of the Air District's programs and activities, including but not limited to policies regarding finance,

procurement, employment, salaries, working conditions, insurance, and the retaining of consultants.

The Finance and Administration Committee advises and makes recommendations to the Board of Directors with respect to strategic planning regarding the goals and objectives of the Air District. The Committee considers and recommends to the Board of Directors each year proposed updates and/or changes to the Air District's strategic plan, considering the goals and objectives and short- and long-range plans of the California Air Resources Board, as appropriate. The Committee uses the strategic plan approved by the Board of Directors to review and develop the proposed budget each year.

The Finance and Administration Committee oversees the preparation of the Air District's annual budget and presents the annual proposed budget with recommendations to the Board of Directors. At budget review time each year, the Committee evaluates the Air District's goals and objectives, financial plan, and fee schedules and recommends appropriate changes to the Board of Directors. The proposed budget prepared by the APCO is automatically deemed referred to the Finance and Administration Committee for consideration, without need for further action by the Board of Directors.

The Finance and Administration Committee receives and reviews the Air District's annual audited financial statement reports from the independent financial auditors and reports any findings or recommendations to the Board of Directors. The Committee also receives and reviews reports from independent management performance auditors and reports any findings or recommendations to the Board of Directors.

The Finance and Administration Committee keeps itself informed as to the work of the Advisory Council and Hearing Board, and it recommends to the Board of Directors the appointment of members of the Advisory Council and Hearing Board whenever vacancies occur on those bodies.

The Finance and Administration Committee considers and recommends updates or revisions to this Code as may from time to time become necessary.

The Finance and Administration Committee is the successor to, and performs all the functions of, the Personnel Committee as that committee existed prior to January 1, 2023.

(c) Nominating Committee

The Nominating Committee considers and makes recommendations to the Board of Directors regarding candidates for Board Officer positions. In making its recommendations, the Nominating Committee shall consider the principles governing officer rotation as set forth in Section 2.7(c), although it need not follow any strict rule of rotation.

The Nominating Committee consists of the Chairperson of the Board, the past Chairperson of the Board, and three (3) appointees of the Chairperson of the Board (or in the event the past Chairperson is no longer serving on the Board, four (4) appointees of the Chairperson of the Board). The Chairperson shall appoint the Nominating Committee no later than October 15<sup>th</sup> of the final year of the Board Officers' terms, and the Committee shall meet in November of that year to recommend candidates to the Board of Directors for Board Officers for the upcoming terms. The Nominating Committee members shall serve until the appointment of a new Committee, and shall recommend candidates to the Board of Directors in the event a Board Officer position becomes vacant in the middle of a term.

(d) Policy, Grants, and Technology Committee

The Policy, Grants, and Technology Committee advises and makes recommendations to the Board of Directors on policies and funding related to sources and activities that affect air pollution and climate impacts that do not fall within the jurisdiction of the Stationary Source Committee. In particular, the Committee advises and makes recommendations to the Board of Directors on policies and funding related to transportation and mobile sources, as well as equity for impacted communities related to these sectors. The Committee also advises and makes recommendations to the Board of Directors on policies and funding to catalyze innovation and incentivize low-carbon-intensity practices. The Committee also advises and makes recommendations to the Board of Directors relating to legislative advocacy. The Committee adopts legislative priorities each year to guide the work of the Committee and Air District staff related to legislative advocacy.

(e) Stationary Source Committee

The Stationary Source Committee advises and makes recommendations to the Board of Directors relating to the air quality and climate impacts of stationary sources, including indirect sources. The Committee advises and makes recommendations to the Board of Directors regarding all aspects of the Air District's stationary source programs, including but not limited to the following: permitting, compliance, small business assistance, rule development, California Environmental Quality Act thresholds of significance, and state and federal regulations that affect stationary sources. The Committee advises and makes recommendations to the Board of Directors regarding air quality planning and the development and implementation of State and Federal Air Quality Management Plans, as well as support for regional and local climate planning.

### 3.3 Standing Committee Procedures

#### (a) Meetings

The Board of Directors shall adopt annually by resolution a committee meeting calendar setting the time and place for meetings of each standing committee. Standing committees may hold any meeting using remote teleconferencing technology in accordance with Government Code sections 54953(b) and (f).

#### (b) Quorum and Action

A quorum of a standing committee is a majority of the members of the committee. A committee may meet only when a quorum is present. An action of a committee shall require the presence of a quorum and the affirmative vote of a majority of the total membership of the committee.

#### (c) Minority Report

A standing committee member may submit a Minority Report to accompany a committee recommendation submitted to the Board of Directors, provided that no Air District staff resources are used to prepare such a report.

### 3.4 Appointments to Committees

The Chairperson shall appoint members of the Board of Directors to the standing committees annually in January, or as soon thereafter as new members are named by their appointing authorities (except for the Nominating Committee, which shall be appointed as specified in Section 3.3(e)). The Chairperson may also appoint members at any time a vacancy occurs. The Chairperson shall ensure that Committee membership is rotated to provide equitable representation of cities and counties and geographical diversity to allow participation in the work of the Air District by as broad a representation as may be possible. In no event shall a committee be composed of a quorum of the Board of Directors or any committee of the Board.

### 3.5 Ad Hoc Committees

The Chairperson may establish ad hoc advisory committees, composed solely of members of the Board of Directors, constituting less than a quorum of the Board of Directors or any of its standing committees, to accomplish a specific task in a short period of time. The Chairperson shall appoint the members of those ad hoc Committees. The Chairperson shall create each ad hoc committee and appoint its members in writing, which shall specify the task of the committee. An ad hoc committee expires upon completion of its designated task. The Board of Directors may overrule the Chairperson's decisions regarding the creation, appointment of members, or designated purpose of the ad hoc committee by majority vote. (Government Code section 54952(b).)

### 3.6 Removal of Committee Members

The Chairperson may remove a member from serving on a standing or ad hoc committee at any time. The Board of Directors may overrule the removal by a majority vote.

## **Section Four. Advisory Council.**

### 4.1 Advisory Council

Pursuant to Health and Safety Code section 40261, the Board of Directors shall appoint a Bay Area Air Quality Management Council (also known as the Advisory Council) to advise and consult with the Board and the APCO on matters referred to it by the Board of Directors or the APCO. Members serve at the pleasure of the Board of Directors and may be removed at any time by a majority vote of the Board of Directors.

### 4.2 Membership

The Advisory Council shall consist of seven members who are skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution, plus one liaison member from the Board of Directors. Advisory Council members shall be selected to include a diversity of perspectives, expertise, and backgrounds. The APCO shall develop position qualifications for serving on the Advisory Council, which shall be approved by the Board of Directors.

### 4.3 Terms of Office

#### (a) Term of Office

Each Advisory Council member shall hold office for a term of two years and until the appointment and qualification of the member's successor.

#### (b) Limitations of Term of Office

The Board of Directors shall not re-appoint a member of the Advisory Council who has served on the Council for twelve (12) consecutive years. A person who has served on the Advisory Council for twelve (12) consecutive years is eligible for re-appointment after an absence of two (2) years from the Council.

### 4.4 Meetings

The Advisory Council shall meet four (4) times each year, or more frequently if the Board of Directors or Advisory Council deems necessary.

### 4.5 Compensation; Expenses

#### (a) Compensation for Attendance at Meetings.

Members of the Advisory Council shall be entitled to compensation of two hundred dollars (\$200) per meeting for attending meetings of the Advisory



Council and other authorized meetings as specified in the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

(Health and Safety Code section 40266.)

(b) Expense Reimbursement

Members of the Advisory Council shall be entitled to reimbursement for actual and necessary expenses incurred by them in attending meetings of the Advisory Council and Advisory Council committees of which they are a member in accordance with the Expense Reimbursement Policy adopted pursuant to Section 2.10.

(Health and Safety Code sections 40260-40268.)

## **Section Five. Community Advisory Council**

### 5.1 Community Advisory Council

The Board of Directors shall appoint a Community Advisory Council to provide guidance to the Board of Directors on programs and policies that impact all communities, including overburdened communities, within the Air District's jurisdiction; to make recommendations to the Board of Directors on equity and environmental justice matters to improve air quality in all communities, prioritizing the most impacted communities; to meaningfully engage impacted communities to represent and address stakeholders' interests; to advise Air District leadership on community-related matters to advance an equity-forward policy agenda; and to carry out any additional duties as the Board of Directors may prescribe. The Community Advisory Council shall be governed in its work by a Governing Structure adopted by the Board of Directors ("Governing Structure").

### 5.2 Membership

In accordance with the Governing Structure, the Board of Directors shall appoint seventeen (17) members to the Community Advisory Council, who shall serve at the pleasure of the Board, as follows: Four (4) members shall live or work in Alameda County; four (4) members shall live or work in Contra Costa County; one (1) member shall live or work in the City and County of San Francisco; one (1) member shall live or work in San Mateo County; two (2) members shall live or work in Santa Clara County; one (1) member shall live or work in Solano County; two (2) members shall be youths who are between the ages of fourteen and twenty-four at the start of their term; and two (2) members shall serve in at-large seats. The Board of Directors shall grant priority to individuals living or working in Marin, Napa, or Sonoma counties or individuals with special expertise, such as wildfire management, when filling the at-large seats. A minimum of seventy percent (70%) of members shall be residents living in the County represented, and no more than six (6) members may represent a County where they work for the benefit of overburdened communities. If selected to fill a seat, a representative of

a business holding an Air District permit, or of an industrial company subject to regulation, shall be a non-voting member.

### 5.3 Terms of Office

#### (a) Term of Office

The Board of Directors shall appoint each member to a two-year or four-year term, in accordance with the Governing Structure. A member's term shall end upon expiration of the two- or four-year term, removal by the Board of Directors, or upon other disqualifying event as provided for in the Governing Structure.

#### (b) Term Limits

No member shall serve on the Community Advisory Council for more than eight years.

#### (c) Vacancy

In the event of a vacancy, the Board of Directors may appoint a new member to fill the vacant seat for the remainder of the term.

### 5.4 Meetings

The Community Advisory Council shall set, by resolution, a regular time and place for meetings.

### 5.5 Compensation; Expenses

#### (a) Compensation for Attendance at Meetings and for Other Activities

Members of the Community Advisory Council shall be entitled to compensation for their time spent working on Council matters as follows. The Board of Directors shall include provisions in the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10 to establish procedures for administering these compensation provisions.

(1) Members shall be entitled to compensation of five hundred dollars (\$500) per meeting for attending meetings of the Community Advisory Council.

(2) Co-Chairs shall be entitled to compensation of seventy-five dollars (\$75) per hour for attending Co-Chair meetings, up to a maximum of four (4) hours per month.

(3) Members of ad hoc or standing committees shall be entitled to compensation of seventy-five dollars (\$75) per hour for attending committee meetings, up to a maximum of six (6) hours per month.

(4) Members shall be entitled to compensation of seventy-five dollars (\$75) per hour for pre-approved participation in events, activities, or services related to the

mission and purpose of the Community Advisory Council authorized in accordance with the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10, up to a maximum of one thousand dollars (\$1,000) per year.

(b) Expense Reimbursement

Members of the Community Advisory Council shall be entitled to reimbursement for actual and necessary expenses incurred by them in connection with attending or participating in any of the meetings or events for which they are entitled to compensation under Section 5.5(a) above. Members shall be entitled to reimbursement for such expenses in accordance with the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

## **Section Six. Hearing Board**

### 6.1 Hearing Board

Pursuant to Health and Safety Code section 40800, the Board of Directors shall appoint a Hearing Board consisting of five members, as provided in Health and Safety Code section 40801. In filling the two seats designated for public members under Health and Safety Code section 40801(d), the Board of Directors shall give priority to applicants who do not qualify for the seats designated for members of professions under Health and Safety Code sections 40801(a)-(c). The Hearing Board shall have the power and authority to issue variances under Health and Safety Code sections 42350 *et seq.*, to issue orders for abatement under Health and Safety Code sections 42451 *et seq.*, to hear appeals from decisions by the APCO to issue, deny, or suspend a permit under Health & Safety Code sections 42302 *et seq.*; to revoke a permit under Health and Safety Code section 42307, and to take all other actions authorized under other provisions of the Health and Safety Code and related law.

### 6.2 Terms of Office

The term of office for a member of the Hearing Board shall be three years.

### 6.3 Rules of Procedure

The Hearing Board shall, as it may deem necessary, adopt, re-adopt, or amend rules of procedure for the conduct of its hearings and other matters before it.

### 6.4 Compensation, Expenses

(a) Hearing Board Meetings

Members of the Hearing Board shall be entitled to compensation of four hundred dollars (\$400), or four hundred fifty dollars (\$450) for the Chairperson, for each day attending meetings of the Hearing Board, and shall be entitled to

compensation of one hundred dollars (\$100) per day for attending other meetings as a representative of the Hearing Board upon authorization by the Board of Directors pursuant to the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

(b) Expense Reimbursement

Members of the Hearing Board shall be entitled to reimbursement for actual and necessary expenses incurred by them in attending meetings of the Hearing Board and other meetings for which compensation is authorized under subsection 6.4(a) in accordance with the Meeting Expense Reimbursement Policy adopted pursuant to Section 2.10.

(Health and Safety Code section 40800 *et seq.*)

## **Section Seven. Adoption of Regulations**

### 7.1 Regulation Authority

Pursuant to Health and Safety Code sections 40000, 40001, and 40702, among other provisions of law, the Board of Directors shall adopt rules and regulations to execute the powers and duties granted to, and imposed upon, the Air District, including but not limited to rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under the Air District's jurisdiction.

### 7.2 Rule Adoption Files

The APCO shall maintain a file for each rule and regulation adopted by the Board of Directors containing (1) petitions received by the Air District proposing the adoption, amendment, or repeal of the rule or regulation; (2) notice of proposed adoption, amendment, or repeal of the rule or regulation; (3) written comments, data, studies, reports, and any other factual information submitted by any member of the public in connection with the adoption, amendment, or repeal of the rule or regulation; (4) a transcript, recording, or minutes of public hearings held in connection with the adoption, amendment, or repeal of the rule or regulation; and (5) the text of the rule or regulation as originally proposed, and any modified text, that was made available to the public prior to adoption.

(Health and Safety Code section 40728.)

### 7.3 Public Hearing Notice Requirements

(a) Time of Publication

The Clerk of the Boards shall provide notice of the time and place of a public hearing to adopt, amend, or repeal any rule or regulation not less than 30 days

prior thereto in accordance with Health and Safety Code section 40725 for such notice, and by publication in each county of the Air District pursuant to Section 6061 of the Government Code.

(b) Content of Notice

The published notice shall include the following information:

(1) The time and place of the public hearing.

(2) A brief description of the proposed action.

(3) Information on how members of the public may obtain the full text of the regulatory language that is proposed to be adopted, amended, or repealed, including a statement that it is available for public inspection at the Air District's headquarters during regular business hours.

(4) An invitation for the submission of written public comments on the proposed action prior to the hearing. The notice shall include information on how the comments should be submitted, including the name, address and telephone number of the person to whom they should be directed (with addresses for mailing, physical delivery, and electronic submission), and it shall specify the date by which the comments must be received.

7.4 Public Hearing Requirements

(a) Public Hearing Required

The Board of Directors shall not adopt, amend, or repeal any rule or regulation without first holding a public hearing thereon. The public hearing may be agendaized and held in the same manner as any other agenda item in accordance with the Board's Rules of Procedure; no formal action of the Board is required to set the public hearing.

(b) Hearing Procedure

At the public hearing held to adopt, amend, or repeal a rule or regulation, the Board of Directors shall provide for the submission of statements, arguments, or contentions, either oral, written, or both. In addition, any submitted written comments shall be made available to each Board member. Following consideration of all relevant matters presented, the Board of Directors may adopt, amend, or repeal a rule or regulation unless the Board determines to make changes in the text originally made available to the public that are so substantial as to significantly affect the meaning of the proposed rule or regulation. The Board of Directors shall not take action on a rule or regulation containing changed text where the change is so substantial as to significantly affect the meaning of the proposed rule or regulation before its next regular meeting and shall allow further

statements, arguments, and contentions either written, oral or both, to be made and considered prior to taking final action.

(c) Findings

Before adopting, amending, or repealing a rule or regulation, the Board of Directors shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined in Health and Safety Code Section 40727, based upon relevant information presented at the hearing.

## **Section Eight. Personnel**

### 8.1 Air Pollution Control Officer (APCO).

(a) Appointment

The Board of Directors shall appoint the Air Pollution Control Officer (APCO), who shall serve at the pleasure of the Board.

(b) Duties

The APCO shall serve as the Executive Officer of the Air District and possess the power and duty to administer the business of the Air District. Those duties include, without limitation:

- (1) Supervising and directing the preparation and submission of all required air quality plans.
- (2) Enforcing all laws, rules, regulations, and orders to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction and enforcing all applicable provisions of state and federal law.
- (3) Supervising and directing the preparation of the annual budget for the Air District.
- (4) Submitting to the Board of Directors each year a complete report of the finances and administrative activities of the Air District from the preceding year.
- (5) Except as otherwise specified in this Administrative Code, executing and administering contracts entered into by the Air District and executing and administering grants and sponsorships funded by the Air District.
- (6) Except as otherwise specified in this Administrative Code, serving as the appointing authority for all positions of employment in the Air District, with plenary and sole authority to hire, fire, discipline, layoff, supervise, and assign employees in the Air District.

- (7) Developing a comprehensive Personnel Policy Manual setting forth personnel policies and procedures for the Air District for approval by the Board of Directors; making the Personnel Manual available to Air District employees and to the public; and administering the personnel policies and procedures set forth in the Personnel Manual.
- (8) Recommending compensation and benefits for Air District employees for approval by the Board of Directors.
- (9) Overseeing the Air District's labor relations program, including its compliance with relevant labor laws, its implementation of any labor agreements approved by the Board of Directors, and negotiations with any Air District labor organization.
- (10) Overseeing a comprehensive classification and position control plan, subject to approval by the Board of Directors.
- (11) In consultation with the Air District General Counsel, ensuring compliance with all relevant Equal Employment Opportunity and Non-discrimination laws.
- (12) Providing the day-to-day administration of the Air District and carrying out all duties required under the Health and Safety Code.
- (13) Retaining and maintaining records according to state law and the Air District's Records Management and Access Policy, which shall be approved by a resolution of the Board of Directors.
- (14) Designating the Air District employee with principal responsibility for the financial affairs of the Air District to hold the title of Chief Financial Officer.
- (15) Performing such other and additional duties as the Board of Directors may prescribe.

## 8.2 Air District General Counsel

### (a) Appointment

The Board of Directors shall appoint a General Counsel to the Air District, who shall serve at the pleasure of the Board.

### (b) Duties

The General Counsel shall serve as the chief legal officer of the Air District and possess the power and duty to administer the legal affairs of the Air District and to represent the Air District in all legal matters. The General Counsel's duties include, without limitation:

- (1) Providing advice and legal opinions, either orally or in writing as appropriate to the circumstances, to the Board of Directors, the APCO, Board Committee, Hearing Board, Advisory Councils, or other committee or employee as directed by the Board of Directors.
- (2) Making recommendations to the APCO and Board of Directors on the settlement of all claims and litigation involving the Air District.
- (3) Approving as to form, prior to enactment, all surety bonds, contracts, ordinances, resolutions, and other legal documents and instruments; and examining and approving title to all real property to be acquired by the Air District.
- (4) Serving as the appointing authority for all positions of employment in the Air District's Legal Division, with plenary and sole authority to hire, fire, discipline, layoff, supervise, and assign employees in that Office.
- (5) Hiring outside legal counsel when in the interests of the Air District. The General Counsel may execute contracts for legal services in an amount that does not exceed two hundred thousand dollars (\$200,000). Contracts in excess of the amount shall be approved by the Board of Directors. The General Counsel shall report all contracts for outside legal services to the Board of Directors. In hiring outside counsel, the General Counsel shall endeavor to follow the Procurement Policy adopted pursuant to Section 9.4 to the extent practicable under the circumstances, but shall not be strictly bound by that Policy.
- (6) Carrying out other and additional duties as the Board of Directors may prescribe.

### 8.3 Clerk of the Boards

The APCO shall appoint a Clerk of the Boards. The Clerk of the Boards shall take the minutes, prepare the correspondence, assemble and distribute the agendas, post and deliver the meeting and hearing notices, keep the records, and generally provide administrative support for the Board of Directors and its committees, the Advisory Councils, and the Hearing Board, as required by law and as requested by the Chairperson and APCO. The Clerk of the Boards shall be the sole entity authorized to accept service of process on behalf of the Air District and its Board of Directors and Hearing Board.

### 8.4 Continuity Policy

In the event that either the APCO or the General Counsel is temporarily unable to perform their duties, or if either position becomes vacant, the duties of that position shall be performed as specified in the Executive Leadership Continuity Policy adopted by the Board of Directors.



## **Section Nine. Fiscal Policies and Procedures**

### **9.1 Treasurer**

The Treasurer of the County of San Mateo shall be ex-officio Treasurer of the Air District and shall have the duties imposed by law.

### **9.2 Annual Audit**

The Board of Directors shall contract with either a certified public accountant or the county auditor of one of the counties of the Air District to conduct an annual audit of the accounts and records of the Air District. The audit shall be conducted in accordance with generally accepted auditing standards for financial audits as specified in the Government Auditing Standards issued by the Comptroller General of the United States. A report of the audit shall be reviewed by the Board of Directors and shall be filed with the County Auditor of each of the counties within the Air District's jurisdiction, the State Controller's Office, and the U.S. Environmental Protection Agency, within twelve months of the end of the fiscal year under examination. (Government Code section 30200; Health and Safety Code section 40276.)

### **9.3 Adoption of Budget**

#### **(a) Budget Preparation**

No later than the 15<sup>th</sup> day of January of each year, the APCO shall start the preparation of the budget for submission to the Board of Directors via the Finance and Administration Committee.

#### **(b) Presentation to Finance and Administration Committee**

The APCO, or their designee, shall present the budget to the Finance and Administration Committee by no later than the 4<sup>th</sup> Wednesday in March to receive direction. By no later than the 4<sup>th</sup> Wednesday in April, the APCO, or their designee, shall present a revised budget to the Finance and Administration Committee for the Committee's approval.

#### **(c) Adoption by the Board of Directors**

##### **(1) Notice**

No less than thirty (30) days before any Board of Directors public hearing on the budget, the APCO, or their designee, shall prepare and make available to the public a summary of the Air District budget and any supporting documents, including, but not limited to, a schedule of fees to be imposed by the Air District to fund its programs.

##### **(2) Public Hearing to Review the Budget**

Not less than two weeks before the public hearing at which the budget is adopted, the Board of Directors shall hold a public hearing for the exclusive purpose of

reviewing the proposed budget and providing the public with the opportunity to comment upon the proposed budget.

(3) Adoption of the Budget

The Board of Directors shall adopt the budget at a public hearing held not less than two weeks after the public hearing to review the proposed budget required under subsection 9.3(c)(2), but under no circumstances any later than the last day of June. (Health and Safety Code section 40130-40131.)

9.4 Procurement and Contracting

- (a) The APCO shall develop for approval by the Board of Directors a Procurement Policy establishing procedures for competitive bidding, awarding, administering, and executing contracts for goods and services, leases, and other similar contractual agreements (collectively referred to herein as “contracts”).
- (b) The APCO may execute contracts in an amount that does not exceed two hundred thousand dollars (\$200,000) as specified in the Procurement Policy. The APCO shall report such contracts to the Board of Directors if they exceed one hundred thousand dollars (\$100,000). Contracts in excess of two hundred thousand dollars (\$200,000) must be approved by the Board of Directors.
- (c) The APCO may execute amendments to contracts if the amount of the contract as amended does not exceed two hundred thousand dollars (\$200,000) as specified in the Procurement Policy. If the amount of the contract as amended exceeds two hundred thousand dollars (\$200,000), the APCO may execute an amendment if the amount of the amendment does not exceed twenty-five percent (25%) of the contract amount or two hundred thousand dollars (\$200,000), whichever is the lesser amount. Any amendment in an amount that exceeds twenty-five percent (25%) of the contract amount or two hundred thousand (\$200,000) must be approved by the Board of Directors, if the total amount of the contract as amended exceeds two hundred thousand dollars (\$200,000). If an amendment does not require approval by the Board of Directors, the APCO shall nevertheless report the amendment to the Board of Directors if the amount of the amendment exceeds ten percent (10%) of the contract amount and the total amount of the contract as amended exceeds one hundred thousand dollars (\$100,000).
- (d) Notwithstanding any limitations in this Section 9.4, the APCO may execute contracts for goods and services without approval by the Board of Directors in the event of a declared state of emergency that causes a need to immediately procure such goods or services to make repairs, to safeguard the lives or property of residents within the Air District jurisdiction or Air District employees or property, or to otherwise protect public health or welfare as a result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other catastrophe, or the breakdown of any plant, equipment, structure, or public work.

The APCO may execute such a contract in an expeditious manner to the extent necessary to respond to the emergency; however, if the emergency permits, the APCO shall obtain the approval of the Chairperson of the Board of Directors. The APCO shall report to the Board of Directors on the execution of the contract as soon as practicably possible.

- (e) In circumstances where a contract is required to be executed independently from the APCO, and no other Air District employee can appropriately execute the contract due to legal, confidentiality, or personnel reasons, or because other good cause exists, the Chairperson of the Board of Directors may execute the contract on behalf of the Air District, with notification to the Board of Directors, if the amount of the contract does not exceed two hundred thousand dollars (\$200,000). Such contracts in excess of two hundred thousand dollars (\$200,000) must be approved by the Board of Directors. In approving such contracts, the Board of Directors shall authorize and direct the Chairperson, the Vice-Chairperson, or another member of the Board of Directors to execute the contract on behalf of the Air District. In entering into contracts under this subsection 9.4(e), the Chairperson and the Board of Directors shall endeavor to follow the Procurement Policy to the extent practicable under the circumstances, but shall not be strictly bound by that Policy.
- (f) The General Counsel may execute contracts for legal services as provided for in Section 8.2(b).

#### 9.5 Acceptance of Grants and Gifts Made to the Air District

The Board of Directors must approve the acceptance of all grants and gifts made to the Air District of more than five hundred dollars (\$500) in value. The Board of Directors may, in its discretion, approve the acceptance of multiple grants or gifts from a single source or entity in one blanket approval.

#### 9.6 Grants of Air District Funds

- (a) The APCO shall develop for approval by the Board of Directors a Grants Policy for the awarding of grants of Air District funds. The APCO shall ensure that all Air District grants comply with the Grants Policy as approved by the Board of Directors. The APCO shall ensure that opportunities, qualifications, and criteria for applying for Air District grants are widely publicized, posted on the Air District's website, and provided to any person or entity who requests notice of such information, as provided for in the Grants Policy.
- (b) The APCO may approve the award of grants of Air District funding in an amount of up to two hundred thousand dollars (\$200,000) per fiscal year per grantee, or up to five hundred thousand dollars (\$500,000) for voluntary emissions reduction projects that are funded by state revenues and local vehicle registration fees. The APCO shall report these grants to the Board of Directors. Awards of grants in

excess of two hundred thousand dollars (\$200,000) to a single grantee in a fiscal year, or five hundred thousand dollars (\$500,000) for voluntary emissions reduction projects that are funded by state revenues and local vehicle registration fees, must be approved by the Board of Directors. The Board of Directors may, in its discretion, approve such grants for an entire grant program in a blanket approval for that program.

#### 9.7 Sponsorships

The APCO shall develop for approval by the Board of Directors a Sponsorship Policy for the award of Air District funds to sponsor activities and events consistent with the Air District's mission, values and goals. The APCO shall ensure that funds expended for sponsorships of such activities and events comply with the Sponsorship Policy as approved by the Board of Directors.

#### 9.8 Agreements for Employee Compensation, Benefits

- (a) The Board of Directors shall approve all employment and labor agreements regarding Air District employees. All such agreements shall be made available to the public and published on the Air District's website.
- (b) The Board of Directors shall approve all contracts for health, retirement, or other employee benefits. All such contracts shall be made available to the public and published on the Air District's website.
- (c) The Board of Directors shall approve the terms of all pay and benefits provided to Air District employees. The terms of such pay and benefits shall be made available to the public and published on the Air District's website.

#### 9.9 Claims Against the Air District

- (a) All claims against the Air District shall be filed with the Clerk of the Boards and the General Counsel. The Air District shall make available a claims form, which shall be published on the Air District's website and available upon request from the Clerk of the Boards, for purposes of advancing a claim.
- (b) With the approval of the General Counsel, the APCO may allow, compromise, or settle a claim or lawsuit against the Air District for an amount not to exceed fifty thousand dollars (\$50,000). The APCO shall report all such resolutions of claims to the Board of Directors. Any allowance, compromise or settlement of a claim or lawsuit in excess of fifty thousand dollars (\$50,000) must be approved by the Board of Directors.

(Government Code section 935.4)

#### 9.10 Electronic Signatures

- (a) Definitions: The following definitions apply to this Section 9.10:

(1) “Electronic signature” has the same meaning as in Section 1633.2 of the California Civil Code.

(2) “Digital signature” has the same meaning as in Section 16.5 of the California Government Code.

(3) “Transaction” has the same meaning as in Section 1633.2 of the California Civil Code.

(4) “UETA” means the Uniform Electronic Transactions Act, commencing at Section 1633.1 of the California Civil Code.

(b) Electronic and Digital Signatures Accepted

(1) In any transaction with the Air District, in which the parties have agreed to conduct the transaction by electronic means, the Air District may use and accept an electronic signature, if the electronic signature complies with the UETA.

(2) In any written communication with the Air District, in which a signature is used or required, the Air District may use or accept a digital signature, if the digital signature complies with Section 16.5 of the California Government Code.

(3) The APCO or their designee shall determine the documents for which the Air District may use and accept electronic signatures or digital signatures.

(c) Accepted Technologies

The APCO or their designee shall determine acceptable technologies and vendors under this section to ensure the security and integrity of any data and signatures. In determining which technologies and vendors are acceptable for digital signatures, the APCO or their designee shall comply with all applicable regulations, including, but not limited to, ensuring that the level of security used to identify the signer of a document and the level of security used to transmit the signature are sufficient for the transaction being conducted. In addition, to the extent necessary, the APCO or their designee shall ensure that any certificate involved in obtaining a digital signature by the signer is sufficient for the Air District's security and interoperability needs.

## **Section 10. Conflicts of Interest Code**

### **10.1 Conflict of Interest Code**

Pursuant to Government Code section 87300, the Board of Directors shall, by resolution, adopt and maintain a Conflict-of-Interest code.

## **Section 11. California Environmental Quality Act (“CEQA”)**

### **11.1 CEQA Regulations**

Pursuant to Public Resources Code section 21082, the Board shall adopt procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations required under the California Environmental Quality Act.

## **Section 12. Transition Provisions, Interpretation of the Code.**

### **12.1 Operative Date**

Except as provided herein, this Administrative Code shall be operative on January 1, 2024. On that date, Division I and Division II of the Administrative Code of the Air District that existed prior to that date are hereby repealed; provided however, Section 10 of Division I shall be adopted “as is” in an Employer-Employee Relations Resolution (“EERR”), to also become operative on January 1, 2024. Any differences between the EERR and Section 10, Division I, shall be subject to meet and consult/confer per the Meyers-Milias-Brown Act, as appropriate. The definitions in Division I preceding Section 1, shall remain in effect to the extent they apply to provisions in Division III.

With respect to Division III (Personnel Policies & Procedures) of the prior Administrative Code:

**Represented Employees:** With respect to Air District employees represented by a labor organization recognized by the Air District’s Board of Directors as their exclusive bargaining representative, policies within Division III shall be repealed after the adoption of new comprehensive personnel policies and labor relations rules, subject to meeting and conferring with the applicable labor organization as provided by law.

**Unrepresented Employees:** With respect to Air District employees who are unrepresented, personnel policies may be hereafter adopted by the Board of Directors that supersede policies in Division III. If and when such superseding policies are adopted, the superseded policy shall be identified upon adoption of the new policy.

In the event of a conflict between Division III and this Administrative Code, Division III shall prevail.

### **12.2 Obligations of Contract Not Impaired**

All rights, claims, actions, orders, obligations, proceedings, bond authorizations, and contracts existing on the operative date of this Administrative Code shall not be affected by the adoption of this Administrative Code.

### **12.3 Effect of Headings**

Section headings contained in this Administrative Code do not constitute any part of the law. Citations to state law are provided for reference only.

#### 12.4 Severability

If any section, subsection, sentence, clause, word, or phrase of this Administrative Code is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Code. The Board of Directors hereby declares that it would have adopted this Administrative Code and each section, subsection, sentence, clause, word, and phrase it contains, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases may be held invalid.