

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2024-XXX

RESOLUTION TO APPROVE THE CITY COUNCIL INTERNAL DISCIPLINE POLICY AND ADD CHAPTER 13 TO TITLE 1 OF THE SAN LEANDRO ADMINISTRATIVE CODE

WHEREAS, the City of San Leandro currently lacks a discipline policy for City Council members; and

WHEREAS, the City Council Member Handbook lacks an enforcement mechanism for violations; and

WHEREAS, a policy will allow for discipline with violations and opportunities for the offender to correct the offending behavior; and

WHEREAS, the City Council of the City of San Leandro desires to approve a discipline policy to establish procedures for discipline of members of the City Council.

NOW, THEREFORE, the City of San Leandro City Council does **RESOLVE** as follows:

SECTION 1. Recitals. The above recitals are true and correct, and hereby made a part of this Resolution by this reference.

SECTION 2. Discipline Policy. The Internal Discipline Policy, attached as Exhibit "A" to this Resolution and incorporated herein, is approved and adopted by the City Council of the City of San Leandro. It shall be incorporated into the City of San Leandro Administrative Code as Chapter 13 to Title 1.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Resolution, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4. Effective Date. This Resolution shall take effect immediately.

Introduced by _____ and passed and adopted this 21st day of October 2024 by the following vote:

AYES:

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NOES:

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ABSENT:

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ATTEST:

Kelly B. Clancy, CMC
City Clerk

DRAFT

EXHIBIT A

TITLE 1, CITY COUNCIL, CHAPTER 13

CITY COUNCIL INTERNAL DISCIPLINE POLICY

§ 1.13.100 PREAMBLE.

It is the intent of the City Council of the City of San Leandro in enacting this policy to achieve fair, ethical, and accountable local government for the City of San Leandro; to assure that individuals and interest groups in our society have a fair and equal opportunity to participate in government; to embrace clear and unequivocal standards of disclosure and transparency in government; to help reinforce public trust in governmental institutions; and to assure that this policy is vigorously enforced to achieve fair, ethical, and accountable local government for the City of San Leandro. The people of the City of San Leandro expect their public officials to comply with both the letter and the spirit of the laws of the United States of America, the State of California, the San Leandro Municipal Code, and established policies of the City of San Leandro affecting the operations of local government. All persons covered by this policy shall aspire to meet the highest ethical standards in the conduct of their responsibility as a public official of the City of San Leandro.

§ 1.13.105 APPLICABILITY AND PURPOSE.

This Discipline Policy applies to the City Council of the City of San Leandro (“City”) and provides directives for efficient and consistent administration of complaints against individual City Councilmembers by or from members of the public, third party consultants, City staff, appointed City officials, and other Councilmembers (together, “Complainants”). It also provides for disciplinary actions for a violation of federal, state, or local law, or any by-law, standing order, or policy of the City Council, including but not limited to the City Council Member Handbook. This policy does not apply to complaints against City employees or third-party consultants acting in a City Department Head or managerial capacity, because such complaints are already addressed by State law, or the City’s Employment Handbook, or by contract, or City Departmental policies, or separate policies promulgated by the City Manager. This policy must be construed and executed in coordination, and not in conflict with, all applicable State and Federal laws, the San Leandro Municipal Code, the San Leandro Administrative Code, applicable City Department policies, including all whistleblower statutes, complainant and victim privacy and confidentiality statutes, and the California Public Records Act. Investigations conducted under this policy shall not commence before the completion of, or interfere with, any investigations related to or required for criminal prosecutions, administrative enforcement, or any Government Code claims, litigation, or other civil actions.

§ 1.13.110 PROCEDURE.

(a) **Public’s Right to Submit Complaint.** Any member of the public who would like to submit facts or allegations pertaining to an alleged violation by a Councilmember of federal, state, or local law, or any Municipal Code, Administrative Code, or policy of the City Council, including but not limited to the City Council Member Handbook, shall submit such facts or allegations in a signed letter, with a return receipt, addressed to the City of San Leandro City Council, 835 E. 14th Street, San Leandro, CA 94577. The statute of limitations for the public’s right to submit a complaint under this policy shall be six months from the date of the alleged violation.

- (b) **Consultation with City Attorney.** A Councilmember seeking to submit a request for discipline or to make a statement regarding specific complaints or allegations is advised to meet with the City Attorney's Office before doing so.
- (c) **Request for Discipline.** A request for discipline or censure may be submitted by any Councilmember in writing to the City Clerk. Any Councilmember's request for discipline is a matter of public record subject to the California Public Records Act's requirements, including all applicable exemptions. A request for discipline must be submitted within six months of the date of the alleged violation. A Councilmember seeking to provide information to the Council concerning the specific conduct for which discipline is requested must submit written information to the City Manager for distribution to the whole Council. The request must contain the specific charges on which the proposed discipline or censure is based, and sufficiently specific facts and allegations as to the charges. The request may include or append a public complaint referenced in subsection (a) of Section 1.13.110.
- (d) **Ad Hoc Committee Consideration.** Upon receipt of a request for discipline or censure, the City Clerk shall forward the request to the Mayor. If the Mayor is the subject of the complaint, then it shall be forwarded to the Vice-Mayor.

The Mayor shall appoint an Ad Hoc Committee of the Council to conduct the preliminary review of the request. The Ad Hoc Committee shall not include the Councilmember making the request or the Councilmember who is the subject of the request.

1. The City Clerk shall deliver a copy of the request for discipline and the charges or complaint to each member of the City Council at least 72 hours prior to the first meeting of the Ad Hoc Committee providing preliminary consideration of the request.
2. Notice of any meeting of the Ad Hoc Committee shall be provided to the public no less than 72 hours before the meeting. Meetings of the Ad Hoc Committee shall be subject to the Brown Act and shall be open and public. The public shall be provided with an opportunity to comment on the subject matter of the meeting.
3. At a meeting held no sooner than 72 hours after the receipt by all Council members of the above notice, the Ad Hoc Committee shall consider the request together with any evidence or testimony submitted by the Council member making the request and the Council member subject to the request and shall determine whether:
 - i. The City Council should authorize further investigation of the charges; or
 - ii. The charges should be forwarded to the Council for discipline; or
 - iii. No action is required.
4. If the Ad Hoc Committee determines that no further action is required regarding the request, or that the charges should be forwarded to the Council for discipline, the Committee shall make a report to the Council at the earliest opportunity but no later than the time provided in

subsection 6. below. The report may be oral or in writing.

5. If the Committee determines that further investigation is required, the Committee shall recommend the City Council authorize an investigation. If the City Council authorizes an investigation, it would be overseen by the Ad Hoc Committee for the Committee to arrive at a recommendation regarding the request and report its conclusions, findings and a summary of its proceedings to the Council at its earliest opportunity. The Ad Hoc Committee may coordinate with the City Manager on the retention of an independent investigator to conduct the investigation.
6. If the Ad Hoc Committee does not report its recommendations to the Council for no further action, or discipline, or for further investigation within 30 days of the formation of the Committee, the matter shall automatically be sent to the Council for consideration.

§ 1.13.115 COUNCIL CONSIDERATION OF DISCIPLINE SHORT OF CENSURE.

Upon receipt of the report of the Ad Hoc Committee, or at the expiration of the time for the Ad Hoc Committee to report back to the City Council, the City Clerk shall place the matter on a Council regular or special meeting agenda for the Council to receive the Committee report and/or determine whether further investigation is required, or whether discipline short of censure is warranted, or to move towards censure. Discipline short of censure may be one or a combination of the items in subsections (a) through (d) below. This discussion is a matter of public record and must take place during an open, noticed, and public meeting of the City Council.

- (a) **Consultation with Mayor.** At the direction of the City Council, an informal consultation with the Mayor may be required of the member who is the subject of the request. If the subject of the request is the Mayor, the consultation shall be with the Vice-Mayor.
- (b) **Letter of Reprimand from the City Council.** At the direction of the City Council, the Mayor, or Vice-Mayor if the Mayor is the subject of the discipline, shall coordinate with the City Manager and/or City Attorney on issuing a letter of reprimand to the subject Councilmember. The reprimand shall be based on a particular action (or set of actions) that is determined to be in violation of law or City policy but is considered by the Council to be not sufficiently serious to require formal censure. The letter of reprimand may include recommendations for corrective actions or behaviors.
- (c) **Statement of Disapproval.** By a resolution of the City Council, the Council may adopt a statement expressing disapproval or displeasure with the conduct of a Council member including recommendations for corrective action or behavior.
- (d) **Admonition.** By a resolution of the City Council, an admonition may be directed to all members of the City Council, reminding them that a particular type of behavior or action may become or is a violation of law or City policy.

§ 1.13.120 CENSURE PROCEDURE.

If the Council decides to set the matter for censure hearing, it shall schedule the hearing no sooner than two weeks after its determination to hear the matter. The Council shall not schedule the matter during any previously scheduled excused absence of the subject Councilmember. A Councilmember who is the subject of an alleged violation shall be ineligible to vote on any matter related to a disciplinary action including, but not limited to, agendaizing the hearing and adopting a resolution of censure. Censure hearings may take place at regular or special City Council meetings and are open to the public.

- (a) **Written Notice.** Written notice of the hearing shall be delivered in person to the Councilmember subject to the censure hearing at least ten (10) days in advance of the scheduled hearing.
- (b) **Hearing procedures.** At the censure hearing, the Councilmember who is the subject of the request for censure shall be given the opportunity to make an opening and a closing statement, to call witnesses on his or her behalf and to question his or her accusers. The subject Councilmember may be represented by a person or persons of his or her choice and may have that representative speak or question witnesses on his or her behalf. The questioning or cross-questioning of witnesses may be reasonably limited by the Mayor, or Vice Mayor if the Mayor is the subject of the censure. Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration. However, the rules of evidence and judicial procedure applicable in courts of law shall not apply to this hearing, and the procedures shall be generally informal.

§ 1.13.125 CENSURE ACTION.

If, at the close of the censure hearing, a majority of the City Council finds that the subject member's conduct violates federal, state or local law, or any by-law, standing order, or policy of the City Council, the Council may take one or more of the following measures in addition to or in combination with the actions in subsections (a) through (d) of Section 1.13.115:

- (a) **Direction to Correct.** The direction shall be given to the subject Councilmember to correct the result of the behavior that violated law or City policy.
- (b) **Direction to Attend Training.** Direction shall be given to the subject Councilmember to attend training related to the behavior that violated law or City policy. The Council could also find that Council privileges shall be withheld or unavailable until evidence or independent certification is provided by the subject Councilmember to the City Council that the training was completed.
- (c) **Resolution of Censure.** The City Council may adopt a resolution of censure based on clear and convincing facts supporting the allegations of misconduct giving rise to the censure. A resolution of censure may include the imposition of sanctions against the Councilmember as the City Council deems appropriate. Such sanctions may include removal from internal standing or ad hoc committees, removal from an external committee to which the member had been appointed, and/or restrictions on City-related travel privileges.