



Legislation Text

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Ordinance of the City of San Leandro City Council to Amend San Leandro Municipal Code sections 1-3-100, 1-3-110 and subsection (a) of section 1-3-115 to add Community Police Review Board and to Add Article 17 Community Police Review Board to San Leandro Municipal Code Chapter 1-3, Boards and Commissions

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2022-XXX

An Ordinance of the City of San Leandro City Council to Amend San Leandro Municipal Code sections 1-3-100, 1-3-110 and subsection (a) of section 1-3-115 to add Community Police Review Board and to Add Article 17 Community Police Review Board to San Leandro Municipal Code Chapter 1-3, Boards and Commissions

The City of San Leandro City Council hereby **ORDAINS** as follows:

1. San Leandro Municipal Code section 1-3-100 is amended in its entirety to read as follows:

The following Boards and Commissions are hereby created:

- (a) Board of Appeals;
- (b) Board of Zoning Adjustments;
- (c) Handicapped Access Appeals Board;
- (d) Human Services Commission;
- (e) Library-Historical Commission;
- (f) Personnel Relations Board;
- (g) Planning Commission;
- (h) Recreation and Parks Commission;
- (i) Site Development Sub-Commission;
- (j) Youth Advisory Commission;
- (k) Rent Review Board;
- (l) Senior Commission;
- (m) Arts Commission; and
- (n) Community Police Review Board.

2. San Leandro Municipal Code section 1-3-110 is amended in its entirety to read as follows:

One elector from each Council Member District shall be appointed to each of the following Boards and Commissions:

- (a) Board of Zoning Adjustments;
- (b) Human Services Commission;
- (c) Library-Historical Commission;
- (d) Planning Commission;
- (e) Recreation and Parks Commission;
- (f) Senior Commission;
- (g) Arts Commission; and
- (h) Community Police Review Board.

Except as provided in this Code, all other members of each such Board and Commission shall be an elector of the City and appointed at large. Two residents who are either secondary students in their third or fourth year of secondary school or college or university students between the ages of 18 and 22 ("Student Member") who are able to attend in person meetings of the Community Police Review Board shall be appointed to the Community Police Review Board. Once these members reach the age of 23, they are no longer eligible to serve or eligible for reappointment to these designated seats. Residents who are interested in appointment to the Student Member designated seats shall complete an application that will be submitted to the City Clerk, who shall schedule a City Council Rules Committee meeting for the Committee to review the applications and, at the City Council Rules Committee's discretion, interview the applicants for recommendation to the City Council for appointment. Any vacancy in these designated seats must be addressed by the Council in accordance with San Leandro Municipal Code section 1-3-115. Three (3) residents selected at large shall be appointed to the Youth Advisory Commission by each Council Member, at least one resident selected from each Council Member District, and the remainder may be selected at large. No change in Council Member District boundaries shall operate to disqualify an incumbent from office before the expiration of the term for which such member was appointed.

3. Subsection (a) of San Leandro Municipal Code Section 1-3-115 is amended to read as follows (new language is italicized to represent the amendments to subsection (a)):

(a) Members of the following Boards and Commissions who were appointed from a specific Council Member District pursuant to Section 1-3-110 <http://qcode.us/codes/sanleandro/view.php?cite=section_1-3-110&confidence=8> of this Article ("District Members") may hold office for up to four (4) years, commencing on the date of appointment:

- (1) Board of Zoning Adjustments;
- (2) Human Services Commission;
- (3) Library-Historical Commission;
- (4) Planning Commission;
- (5) Recreation and Parks Commission;
- (6) Senior Commission;
- (7) Arts Commission; and
- (8) *Community Police Review Board.*

Except as provided in this Code, the terms of District Members shall terminate upon the expiration of the regular term of the Council Member representing the Council Member District from which the District Member was appointed. As to the Community Police Review Board, the initial terms of Board members who are District Members from Districts 1, 3, 5, and the Mayor's at large appointment shall expire December 31, 2023 and the terms of District Members from Districts 2, 4, and 6 shall expire December 31, 2024. Thereafter, all members of the Community Police Review Board may hold office for up to four years. The City Council may fill a vacancy by appointment for the unexpired remainder of the term.

4. A new Article 17, Community Police Review Board, is added to San Leandro Municipal Code Chapter 1-3, Boards and Commissions, to read as follows:

1-3-1700 Short title and Purpose.

This article shall be known as the City of San Leandro "Community Police Review Board Ordinance." The purpose of the board is to

increase public trust, increase accountability, ensure that police operations reflect community values, and, in cooperation with the Independent Police Auditor, ensure prompt, impartial, and fair investigations of complaints brought by members of the public against San Leandro Police Department employees, including but not limited to complaints under California Penal Code section 832.5.

1-3-1710 Establishment.

There is created and established an appointed body of the City Council to be known as the Community Police Review Board and hereinafter called "board" or "CPRB."

1-3-1720 Membership and Conditions of Holding Office.

- (a) The board shall consist of nine (9) members. The membership shall include one member from each of the six (6) Council Member Districts, an at large member appointed by the Mayor pursuant to Section [1-3-110](#) [\(<https://qcode.us/codes/sanleandro/view.php?cite=section_1-3-110&confidence=8>](https://qcode.us/codes/sanleandro/view.php?cite=section_1-3-110&confidence=8) of this Code and two Student Members, as defined by San Leandro Municipal Code section 1-3-110.
1. Each member shall be a resident of the city.
 2. Subject to the receipt of enough qualified applicants, the Council must appoint a majority of members to the board who reflect the diversity of the City, by including members who represent the City's diverse geographic areas and socio-economic, cultural, racial, ethnic, gender, gender identity, sexual orientation, and age differences, and who have differing personal backgrounds, education, occupations, and life experiences.
 3. To ensure the board's independence from the San Leandro Police Department and other law enforcement agencies, no current or former employee of a police department or other law enforcement agency may serve on the board. In addition, no immediate family or household member, defined as the parent, spouse, domestic partner, sibling, child, or cohabitant, of a law enforcement officer, who works or worked for a law enforcement agency, may serve on the board. For purposes of this prohibition, law enforcement agencies include police departments of all cities, as well as all public agencies, county, state, and federal law enforcement officers, and city, county, state, and federal prosecutors and public defenders.
 4. Practicing attorneys who handle, or are members of firms or entities that currently handle criminal or civil matters involving law enforcement agencies are ineligible to serve on the board.
- (b) Board members are expected to comply with all of the duties and obligations required or expected of board members by this Article. A board member may be automatically removed from office by the Council for two unexcused absences in a calendar year. An excused absence is one where the board member notifies the board chair of their absence at least forty-eight hours in advance of the board's next regular or special meeting. Notwithstanding anything to the contrary, the Council may remove a member for three absences of any type in a calendar year.

1-3-1730 Orientation, and training.

- (a) No later than 90 days after appointment, each member shall:
1. Participate in a ride-along with the police department in a four-hour minimum shift; and
 2. Receive approximately 30 hours of training in relevant subject matters facilitated by City staff, including but not limited to the police department, on topics including, at a minimum, constitutional rights and civil liberties, Penal Code Section 832.5, fundamentals of procedure, evidence, and due process, procedural rights and confidentiality afforded to police officers by California law (including, but not limited to, Government Code Section 3300 et seq. and Penal Code Sections 832.7 and 832.8), police department operations, policies, practices, and procedures, and duties, responsibilities, procedures, and requirements associated with all ranks and assignments, including support services; and
 3. Receive ethics training as required by State law ([AB 1234, Chapter 700, Stats. of 2005](#)) [\(<https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200520060AB1234>](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200520060AB1234)), and submit to the City Clerk annual statements of economic interest pursuant to the city's conflict of interest code.

1-3-1740 Annual report.

The board shall submit an annual report and workplan to the city council no later than June 30 of each year. Attendance

records of members shall be included as part of the annual report.

1-3-1750 Purpose and functions.

- (a) *The board's function is to:*
1. *Receive community feedback and Penal Code Section 832.5 complaints and refer them for further review, as appropriate, to the independent police auditor or the internal affairs function of the police department;*
 2. *In accordance with all Federal and State laws, including but not limited to the Peace Officers Procedural Bill of Rights Act, receive reports from the independent police auditor regarding personnel discipline and complaints, critical incidents, police department policies, and other law enforcement matters;*
 3. *Monitor, review, and provide input on police department policies, and receive reports from the police department on policies that indicate a need for review based on trends and data or that are, in the judgment of a majority of the board, of compelling community-wide concern. At the City Manager's exclusive discretion and direction, City employees shall cooperate with and assist the board and its staff with the gathering and receipt of public records as defined by the California Public Records Act relevant to the Board's function. Police department policy reviews may be initiated by either the independent police auditor or action by a majority of the board;*
 - (A) *Notwithstanding the right to play a role in monitoring and reviewing police department policies, the board must refrain from any action or statement to prevent implementation of a police department policy that under State or Federal law is recommended by the Police Chief to take immediate effect or required to take immediate effect.*
 - (B) *Notwithstanding the right to play a role in reviewing and monitoring police department policies pertaining to personnel matters, the board must refrain from (i) directly or indirectly taking active participation in personnel matters; (ii) taking personnel actions; (iii) using or misusing records developed to take personnel actions; and/or (iv) directing that action be taken on police department employees.*
 - (C) *Notwithstanding any other rights or functions contained herein, including the receipt and referral of Penal Code Section 832.5 complaints, the board must refrain from drafting or submitting any subpoena or soliciting a second legal opinion on a matter after receiving an opinion from the City Attorney without first submitting such request to the City Manager who shall forward it to the City Council.*
 4. *Upon notice of vacancy for the position of Chief of Police, receive from the City Manager a report on the job requirements, application process, and evaluation criteria of candidates for the Chief of Police, and make recommendations to the City Manager regarding the job requirements, application process, and evaluation criteria.*

1-3-1760 Independent Police Auditor

There is hereby established an independent police auditor, who is appointed by and is a direct report to the City Manager, who shall perform the following functions:

- (a) *Serve as an independent monitor of the police department.*
- (b) *Participate in all internal affairs and administrative review processes conducted by the police department. The independent police auditor shall receive immediate notification of all critical incidents and may at its discretion provide advice to the police department's administrative investigations team during its internal affairs investigation, and shall receive all of the same documents and records as the police department's administrative investigators.*
- (c) *Serve as the law enforcement subject matter expert to the board. The independent police auditor shall assist the board with classifying Penal Code Section 832.5 complaints; analyze for the board local, State, and national police data and trends; make expert recommendations to the board and the Police Chief on police department policies, with specific expert recommendations pertaining to investigations, training, and discipline policies; assist the board with the preparation of the board's annual report and workplan; and in collaboration with the City Manager support the board's public outreach activities.*
- (d) *Recommend, with the Police Chief's and the specifically affected police department personnel's written consent, referrals for voluntary and confidential mediation of specific complaints to community based mediation services provided by trained or certified mediators.*

1-3-1770 Qualifications of the Independent Police Auditor

- (a) *Subject to the discretion and judgment of the City Manager, the independent police auditor shall at a minimum have professional experience, certifications, and other qualifications specifically related to law enforcement agency personnel investigations, and California law related to the Public Safety Officer's Procedural Bill of Rights Act (California Government Code Section 3300 et seq.).*
- (b) *Before appointment, the independent police auditor shall be subject to a full background check, confidentiality oath or agreement, and training on access to San Leandro police department personnel investigations and records.*