

The people of the City of Berkeley do ordain as follows:

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ARTICLE XVIII. POLICE ACCOUNTABILITY BOARD

Section 125. Purpose of Police Accountability Board.

The purpose of this article is to create an elected Police Accountability Board controlling the Berkeley Police Department and any other security or law enforcement personnel employed directly or indirectly by the City of Berkeley; ensuring safe and effective policing for everyone in Berkeley regardless of race, gender, orientation, religion, disability, country of origin or economic status; protecting the community from excessive use of force by police; and holding police accountable for their actions.

Section 126. Composition of Police Accountability Board.

There shall be in the City of Berkeley a Police Accountability Board. Notwithstanding the Introduction and Article V, Section 8 of the City Charter the Board shall initially consist of nine appointed Commissioners and subsequently consist of nine elected Commissioners. The Board shall elect annually one of its members to serve as Chairperson.

(1) Eligibility.

Residents who are duly qualified electors of Berkeley are eligible to serve as Commissioners of the Board, unless they have served any part of the preceding term.

Each candidate for elected Board Commissioner must have resided in Berkeley for a period of not less than thirty days immediately preceding the date they file a declaration of candidacy for the office of Commissioner.

Each Board Commissioner must continue to reside in Berkeley during their incumbency, and shall be removed from office upon ceasing to be such resident.

(2) Full Disclosure of Employment and Convictions.

Candidates for election to the position of Board Commissioner shall submit a sworn statement of their employment history, including but not limited to any past or current employment with any law enforcement agency, and any criminal convictions.

(3) Conflict of Interest.

Board Commissioners shall be subject to the requirements of the California Political Reform Act and other applicable state and local conflict of interest codes.

Section 127. Initial Appointment and Subsequent Election of Commissioners.

Police Accountability Board Commissioners shall be elected at the general municipal election held in November of even numbered years, except as provided by subsection (3) below.

(1) Term of Office.

Board Commissioners shall serve terms beginning on the first day of the month following their election, or immediately upon their appointment.

Terms shall be four years, except as provided by subsections (4) and (6) below.

(2) Recall.

Board Commissioners shall be subject to recall as provided in Article IV of the City Charter.

(3) Appointment of First Board.

Each City Councilmember who holds office on December 1, 2018 shall appoint one Commissioner with requisite qualifications. The Mayor who holds office on December 1, 2018 shall appoint one Commissioner with requisite qualifications.

To any extent which the Councilmembers and Mayor are unable to appoint nine First Board Commissioners as provided above, each remaining Commissioner shall be appointed upon affirmative vote of five members of the Council.

(4) Term of Office of First Board.

The Commissioners appointed under subsection (3) shall hold office until November 30, 2020.

(5) Election of Second Board.

The election for the second board shall be held at the general municipal election in November of 2020.

(6) Term of Office of Second Board.

Of the nine Commissioners elected under subsection (5), the five Commissioners receiving the least votes shall hold office until the last day of November in the next even numbered year. The remaining four Commissioners shall hold office for an additional two years, those terms also ending on the last day of November of the appropriate year.

Section 128. Nomination - Filing Fee

Candidates for elected Police Accountability Board Commissioner shall be nominated by registered voters from the City of Berkeley.

At the time of filing their nomination papers, each candidate for the elected office of Police Accountability Board commissioner shall pay a filing fee, in the amount of \$150. The filing fee may be offset in whole or in part by the submission of up to 150 signatures of registered voters in the City. Each signature of a registered voter shall offset \$1 of the filing fee. Any such required submission of signatures, in lieu of filing fees, shall be in addition to the signatures otherwise required by the State of California Election Code to nominate a candidate.

Section 129. Vacancy in Office of Police Accountability Board Commissioner.

(1) If a vacancy shall occur in the office of Police Accountability Board Commissioner, the City Council shall appoint a Commissioner with requisite qualifications upon affirmative vote of five members of the Council to serve the remainder of the term of the office being vacated.

If the Council is unable to fill the vacancy, the Board shall appoint a Commissioner to serve the remainder of the term of the office being vacated.

(2) If at any municipal election any Board Commissioner is not elected by reason of a tie vote among any of the candidates, then the Board, after the qualification of the persons, if any, elected at the election, shall appoint a person receiving the tie vote to fill the office vacant by reason of the tie vote.

Section 130. Powers and Duties.

Notwithstanding Article VII, Sections 27, 28, 29 and 31 and Article XVI, Section 119 of the City Charter the Police Accountability Board shall be fully and exclusively responsible for the supervision and control of the Berkeley Police Department and all its divisions and, at the Board's discretion, any other security or law enforcement personnel employed directly or indirectly by the City of Berkeley, and for the performance of the functions assigned to the Department.

Notwithstanding Article VII, Sections 27, 28, 29 and 31 and Article XVI, Section 119 of the City Charter the Police Accountability Board shall have full and exclusive authority to adopt rules and regulations for the administration, discipline, equipment and uniforms of the members and officers of the Berkeley Police Department, and at the Board's discretion, any other security or law enforcement personnel employed directly or indirectly by the City of Berkeley, fixing powers and duties and prescribing penalties for violations of any such rules and regulations, and providing for their enforcement.

Notwithstanding Article VII, Sections 27, 28, 29 and 31 and Article XVI, Section 119 of the City Charter the Police Accountability Board shall have the full and exclusive powers and duties to appoint, discipline or remove all officers and employees of the Berkeley Police Department and, at the Board's discretion, any other security or law enforcement personnel employed directly or indirectly by the City of Berkeley.

The appointment of a Chief of Police by the Police Accountability Board shall become effective upon affirmative vote of five members of the Board.

Notwithstanding Article VII, Sections 27, 28, 29 and 31 and Article XVI, Section 119 of the City Charter the Police Accountability Board shall have powers and duties:

(a) To see that all laws and ordinances are duly enforced, and the Board is hereby declared to be beneficially interested in their enforcement and to have the power to sue in the proper court to enforce them.

(b) To recommend to the City Council for adoption such measures and ordinances as may be deemed necessary.

(c) To make investigations into the affairs of the Berkeley Police Department or division thereof and, at the Board's discretion, any other security or law enforcement personnel employed directly or indirectly by the City of Berkeley, or any contract, or the proper performance of any obligation running to the Berkeley Police Department.

(d) To keep the City Council at all times fully advised as to the financial condition and needs of the Berkeley Police Department.

(1) Superseding of Police Review Commission.

The Board provided for in this Article shall, upon taking office, supersede the Police Review Commission. At such time, said appointed Commission shall cease to exist as a legal entity.

(2) Hiring of Staff.

The Board shall be a working Board and shall employ such staff as may be necessary to perform its functions efficiently. The Board shall have the power to hire and fire staff notwithstanding Article VII, Sections 27, 28, 29 and 31 and Article XVI, Section 119 of the City Charter. The City Manager shall provide such supportive services as are required for the Board to carry out its responsibilities. The Board shall follow the City of Berkeley affirmative action employment policy.

(3) Financing.

The Board is empowered to request and receive funding, from the City of Berkeley and/or any other available source, for its reasonable and necessary expenses.

(4) Administering Oaths, Subpoenas.

Notwithstanding Article V, Section 20 of the City Charter, the Police Accountability Board and any subcommittee of the Board shall have the power to subpoena witnesses, take testimony under oath and require the production of records by subpoena. The Chief of Police must, on request of the Board or any subcommittee of the Board, detail a police officer or officers to serve such subpoena. Any person so subpoenaed who neglects or refuses to appear, to produce any records or refuses to testify or answer any question, which a majority of the Board or any

subcommittee of the Board shall decide to be proper and pertinent, shall be subject to contempt proceedings brought in accordance with the general laws of the State. Every member of the Board, when authorized by the Board, shall have the power to administer oaths and affirmations.

(5) Additional Powers and Duties.

With the Board's consent, the City Council may assign additional powers and duties to the Board as appropriate. Furthermore, the electorate may give additional powers or duties through initiative ordinance as provided by the City Charter.

(6) Quorum.

Five Commissioners shall constitute a quorum for the Board. The affirmative vote of five Commissioners of the Board is required for a decision, including all motions, rules, regulations and orders of the Board.

Section 131. Severability.

If any provision of this Article is adjudged by a court of competent jurisdiction to be unenforceable, such adjudication shall not affect the enforceability of any other provisions, and this Article shall continue in full force and effect as if such unenforceable provision were not a part hereof.