

**ORDINANCE NO. 4333**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING DIVISION 6 (“POLICE OVERSIGHT COMMISSION”) OF ARTICLE 5 (“BOARDS AND COMMISSIONS”) OF CHAPTER 2 (“ADMINISTRATION”) OF THE POMONA CITY CODE RELATING TO THE POLICE OVERSIGHT COMMISSION PURSUANT TO THE PROVISIONS OF ARTICLE VIII (“APPOINTIVE BOARDS AND COMMISSIONS”) SECTION 806 (“POLICE OVERSIGHT COMMISSION”) OF THE CHARTER OF THE CITY OF POMONA**

**WHEREAS**, on or about May 17, 2021, the City Council of the City of Pomona, based on recommendations of a task force comprised of community members and leaders, enacted Ordinance No. 4303 establishing a Police Oversight Commission to, among other things, advance the City’s mission consistent with its core values, improve police accountability to the community, create a mechanism to receive input from different perspectives, create a forum to inform the community about Pomona Police Department issues, provide a venue for concerned citizens to engage and provide for independent audits and investigations of matters involving the Pomona Police Department; and

**WHEREAS**, at the November 1, 2022, Municipal Election, the electors of the City of Pomona enacted a new Section 806 to Article VIII of the City Charter establishing a Pomona Police Oversight Commission to increase the accountability and public confidence in the Pomona Police Department and the police complaint process and provide a forum for community conversations about the operation and review of law enforcement activities; and

**WHEREAS**, the City Council desires to amend Division 6 of Article 5 of Chapter 2 of the Pomona Municipal Code to implement Charter Section 806 while maintaining those provisions which are not inconsistent with Section 806 and are necessary to the orderly selection of Commission members and the ability of the Commission to fulfill their functions and duties.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Pomona as follows:

**SECTION 1.** The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein.

**SECTION 2.** The City Council of the City of Pomona finds the adoption of this ordinance to be statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Regulation 15061(b)(3). Under Regulation 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the project is exempt from CEQA. This ordinance will not affect the physical environment by permitting a new use or intensifying an existing use. The ordinance establishes a policy commission. There is no potential for the changes to result in a significant effect on the environment.

**SECTION 3.** The City Council of the City of Pomona hereby amends Division 6 of Article 5 of Chapter 2 of the Pomona Municipal Code to read as follows:

**DIVISION 6. – POLICE OVERSIGHT COMMISSION**

- 2-651 Establishment and purpose.
- 2-652 Appointment.
- 2-653 Qualifications of commissioners.
- 2-654 Terms of office.
- 2-655 Duties and responsibilities.
- 2-656 Commissioner confidentiality and training.
- 2-657 Appointment and role of the independent inspector general.
- 2-658 Meetings.

**Sec. 2-651. – Establishment and purpose.**

There is hereby established the Police Oversight Commission (hereinafter referred to as the “Commission”), which is established to increase the accountability and public confidence in the Pomona Police Department and the police complaint process and provide a forum for community conversations about the operation and review of law enforcement activities.

**Sec. 2-652. – Appointment and Removal.**

- (a) Notwithstanding Section 801 of this Charter, the Commission shall be comprised of five (5) members appointed by a majority vote of the City Council.
- (b) The Commission shall be made up exclusively of Pomona residents who have the ability to be fair and impartial, reflect the diversity of the community and possess other additional qualifications as determined by the City Council.
- (c) The City Council shall promptly remove a Commissioner for violations of confidentiality, refusal to complete any required training or other violations as determined by the City Council.
- (d) The City Clerk shall prepare application forms requiring applicants to provide information demonstrating that they meet qualification requirements set forth in this Division 6.

**Sec. 2-653. - Qualifications of Commissioners.**

- (a) All members of the Commission shall reside in the City of Pomona.
- (b) Elected or appointed officers and employees serving the City shall not be eligible for appointment to the Commission.
- (c) Any person who is currently an employee of the Pomona Police Department shall not be eligible for appointment to the Commission.

(d) Any person who was an employee of the Pomona Police Department shall not be eligible for appointment to the Commission for at least five (5) years following their separation date from the City.

(e) Any person who was employed as a law enforcement officer for any local, county, state or federal agency shall not be eligible for appointment to the Commission for at least five (5) years following the date that they last served in that role.

(f) Any person who has been charged and disciplined for official misconduct as defined in SB1421 in their position of employment as a law enforcement officer shall not be eligible for appointment to the Commission.

(g) Practicing attorneys who handle, or are members of firms or entities that currently handle, criminal or civil matters involving the Pomona Police Department shall not be eligible to serve on the Commission.

**Sec. 2-654. - Terms of Office.** Each Commissioner shall serve a term of four (4) years and may be reappointed by a majority vote of the City Council, except that the initial terms for two of the members, as determined by the City Council, shall be two (2) years to ensure continuity. Mid-term vacancies shall be filled by a majority vote of the City Council.

**Sec. 2-655. - Duties and responsibilities.**

The Police Oversight Commission shall have the following functions and duties, among others as requested by the City Council, which are not otherwise inconsistent with Section 806 of the Pomona Charter:

(a) Advise the Mayor, City Council, City Manager, and/or Police Chief on all police and law enforcement community relations issues.

(b) Conduct public outreach to educate the community on the purpose of the Commission and to hear from the Community with respect to policing.

(c) Review information and statistics regarding police complaints, policies and practices and advise the Pomona Police Department in matters pertaining to police policies and practices.

(d) Receive notification from the Police Chief when a use of force complaint involving a sworn member of the police department is received or initiated. Complaints resulting in a criminal investigation may delay a report from the Police Chief as administrative investigations are conducted at the conclusion of criminal investigations.

(e) Authorize the use of an independent auditor, investigator, or inspector general to review and/ or investigate incidents arising out of or in connection with the actions of sworn personnel of the Pomona Police Department, including i) the death of any individual arising from the use of force or actions of sworn police personnel, ii) complaints of use of force against a minor, and iii) other incidents involving sworn personnel of the Pomona Police Department as determined

by a majority of the Commission's membership. With respect to such reviews and investigations, the Commission shall:

1. Discuss results of reviews and investigations and share such results in public meetings to the extent legally permissible under State and Federal law.
2. Following a review and/ or investigation, make findings and recommendations to the City Manager and Police Chief related to allegations of misconduct who shall consider them when making disciplinary determinations, provided that the Commission makes such findings and recommendations and submits them to the Police Chief and City Manager prior to disciplinary action being taken.

(f) Request reports from the Police Chief and conduct meetings on new incidents which meet the public disclosure requirements set forth in SB1421. SB 1421 gives the public the right to access records related to investigation and discipline of peace officers where a law enforcement officer fired a gun at a person, or used force that resulted in serious injury or death; where an officer committed sexual assault against a member of the public, including attempts to coerce sex or proposition sex while on duty and where an officer engaged in dishonesty in the investigation, reporting, or prosecution of crime or police misconduct.

(g) Investigate, through the inspector general or a third-party investigator, any *new* incident which the Commission finds 1) has created a controversy in the community and 2) is the type of incident requiring public disclosure under SB1421.

(h) Receive community complaints and concerns and refer them to the City Manager, Police Department, and/or an independent auditor, investigator, or inspector general for review and response.

(i) Prepare and submit an annual report to the City Council on Commission activities and recommendations.

(j) Perform other duties and exercise other powers as may be prescribed by this Charter or by Ordinance or Resolution of the City Council as more particularly set forth in Section 2-659.

#### **Sec. 2-656. – Commissioner confidentiality and training**

(a) Prior to attending his or her first Commission meeting, each Commissioner shall take an oath and execute a confidentiality agreement stating that they will not divulge confidential information, including identities of witnesses and contents of confidential testimony and documents, either during their term of office or thereafter to ensure that private personnel information and other information subject to state law protections is not released or shared

(b) Each Commissioner shall sign an acknowledgment that they have never been disciplined for employee misconduct.

(c) No later than 90 days after appointment, each member shall:

1. Participate in a ride-along with the Pomona Police Department; and



2. Receive training in relevant subject matters facilitated by Inspector General, by attending training sessions sponsored by the National Association for Civilian Oversight of Law Enforcement or similar entities, or through presentations provided on topics including, at a minimum, constitutional rights and civil liberties, 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.

**Sec. 2-657. – Appointment of Independent Auditor, Inspector General, Investigator.**

(a) Any independent auditor, investigator or inspector general retained or hired to assist the Commission shall be selected by the City Council or, by majority vote of the City Council, delegated to the City Manager, subject to approval of the Commission, by a majority vote of the membership of the Commission.

(b) Inspector General.

1. The inspector general may be an individual or firm that designates an individual to serve in this role. The inspector general shall have at least five (5) years of experience in investigative, auditing, and public policy work in a related field that includes experience with statistics and data collection in a public sector entity. Experience and background in law enforcement policy and practice is desirable.
2. The inspector general may assist the Commission in performing its duties. The Commission may authorize the inspector general to audit complaint files and review policies to ensure best practices are implemented. The Commission may engage the inspector general to make recommendations or conduct independent investigations as provided in Sec. 2-655 (e) and (g) above.
3. The inspector general shall conduct all audits and investigations in a fair, objective, impartial and ethical manner, and shall comply with all laws concerning interviews of police officers. The inspector general may discuss findings with the Commission and/or the public so long as the inspector general complies with California Penal Code Sections 832.5 and 832.7 and California Government Code Sections 3300, *et seq.*
4. The inspector general may meet with the Commission in closed session as authorized by the Brown Act and under circumstances requiring closed session discussions.

**Sec. 2-658. – Meetings.**

The Commission shall hold its first meeting within thirty (30) days after all of its members have been appointed. At such meeting, the Commission shall fix the time and place of regularly scheduled meetings which shall not be less than once each month. The Police Chief or a person designated by the City Manager shall attend all regular and special meetings of the Commission.

**Sec. 2-659. Legislation and Regulations to Further Goals of Charter Section 806.**

The Commission may make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of Pomona Charter Section 806. The City Council may, on its own motion, enact legislation or regulations that will further the goals and purposes of Section 806, but shall not adopt such legislation or regulations that reduce the duties or powers of the Commission or which otherwise conflict with said Charter Section. Legislation or regulations proposed by the Council shall be submitted to the Commission, once established, for review and comment. The Commission shall have sixty (60) days to submit its comments to the City Council, such time to be extended only by consent of the City Council. The City Council shall consider the Commission comments prior to enacting any legislation or regulations, provided, however, that the City Council may enact legislation as necessary to implement Charter Section 806, including the provisions relating to the selection of the Commission, prior to such time that Commission members are selected and sworn into office.

**Sec. 2-660. Commission Funding, Support.**

(a) The City Council shall provide funding, staffing, training, and resources to ensure the Commission can successfully perform its duties and exercise its powers.

(b) City Departments shall cooperate, provide relevant documents, and render all necessary and reasonable assistance to the Commission in support of the duties specified herein.

**Sec. 2-661. Subpoenas.**

The Commission may issue subpoenas to require the attendance of witnesses, including persons employed by the City of Pomona, and the production of documents and records pertinent to the investigation and to administer oaths to such witnesses and to take testimony to the extent permissible by law. Failure to comply with such subpoena shall be punishable as a misdemeanor.

**SECTION 4.** The City Clerk shall attest and certify to the passage and adoption of this Ordinance and shall cause same to be posted as required by law and this Ordinance shall take effect thirty (30) days after its final adoption.

**SECTION 5.** If any section, subsection, sentence clause or phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Pomona hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence clause or phrase or word not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of August, 2023.

**CITY OF POMONA:**



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Tim Sandoval  
Mayor

**APPROVED AS TO FORM:**



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Sonia Carvalho  
City Attorney

**ATTEST:**



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Rosalia A. Butlet, MMC  
City Clerk

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF POMONA

I, DIANA ROBLES, DEPUTY CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on July 17, 2023 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on August 7, 2023, by the following vote:

AYES: Garcia, Lustro, Nolte, Ontiveros-Cole, Preciado, Torres, Sandoval  
NOES: None  
ABSENT: None  
ABSTAIN: None



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Diana Robles  
Deputy City Clerk