

ORDINANCE NO. _____

An ordinance amending Article 5 and Article 5.5 of Chapter 5, Division 23, of the Los Angeles Administrative Code to amend the Procedures for Election of Employee and Retired Members of the Board of Fire and Police Pension Commissioners, and to make technical and other changes.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 5 of Chapter 5, Division 23, of the Los Angeles Administrative Code is amended in its entirety to read as follows:

ARTICLE 5

ELECTED EMPLOYEE MEMBERS OF THE BOARD

Sec. 23.102. Definitions.

For purposes of this article, the following words and phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated by the context.

- (a) **“Board”** shall mean the Board of Fire and Police Pension Commissioners.
- (b) **“City Clerk”** shall mean the Office of the City Clerk.
- (c) **“Department”** shall mean the Department of Fire and Police Pensions.
- (d) **“Employee Member of the Board”** shall mean an active sworn member of the Board of Fire and Police Pension Commissioners as required by Charter Section 1104(a).
- (e) **“General Manager”** shall mean the General Manager of the Department of Fire and Police Pensions.
- (f) **“Member of Fire Department”** shall mean a member as defined in Charter Section 1202(e), and includes participants in the Deferred Retirement Option Plan (DROP).
- (g) **“Member of Police Department”** shall mean a member as defined in Charter Section 1202(e), and includes participants in the Deferred Retirement Option Plan (DROP).

Sec. 23.102.1. Term of Office.

The terms of the two employee members of the Board shall be five years beginning on the first day in July of the year of their respective election. One employee member shall be elected by eligible employee members of the Fire Department, and one shall be elected by eligible employee members of the Police Department. The terms of the employee members shall be staggered.

Sec. 23.102.2. Elections: General.

(a) All elections shall be by secret ballot and shall be conducted by the City Clerk. The Department shall reimburse the City Clerk for all necessary expenses incurred in the administration of elections.

(b) Regular elections shall be held by April 30 of each year in which the term of office of an employee elected member of the Board expires. Runoff and Special Elections shall be held on dates as authorized by the Board.

(c) Eligible voters shall be only those who, on the date of the election, are members of the department of which the candidate is also a member. The General Manager shall provide to the City Clerk, 30 calendar days prior to the election, a primary roster of eligible voters certified by the Personnel Department. The certified primary roster shall contain the full name, address, and last four digits of the social security number of each eligible voter, listed in alphabetical order by surname. The certified primary roster shall be as up-to-date as possible.

(d) On the date of the election, the General Manager shall provide to the City Clerk a supplemental roster certified by the Department listing persons who have retired, resigned, or otherwise lost their status as an eligible voter, together with the last four digits of their social security numbers. Anyone whose name appears on this supplemental roster shall be deemed removed from the primary roster.

Sec. 23.102.3. Nomination of Candidates and Preparation of the Official Ballot.

(a) Only employee members are eligible to be elected to the position of employee member for their respective department.

(b) Not more than 90 calendar days nor fewer than 60 calendar days prior to the regular election, the City Clerk shall notify by mail all employee members of the department with the vacancy for employee member of the Board that candidates are being sought to run for election to the position of that department's employee member of the Board. This notification shall instruct employee members interested in becoming a candidate to submit a completed Notice of Intent to run for office. The City Clerk shall prepare the Notice of Intent form no less than seven weeks prior to an election.

(c) Along with the submission of the Notice of Intent, interested candidates shall have the option to include an occupational ballot designation and a typed statement of qualifications for office. The completed Notice of Intent, optional ballot designation and statement of qualifications, known as the candidate packet, shall be submitted to the City Clerk within the due date specified in the notification in order for candidates to have their names placed on the ballot.

(d) The occupational ballot designation for each qualifying candidate shall be printed on the ballot, immediately under that candidate's name and shall consist of a three-word designation of either: (a) the current principal profession, vocation or occupation of the candidate; or (b) the principal profession, vocation or occupation of the candidate during the calendar year immediately preceding the filing of the candidate's Notice of Intent form. A candidate who is running for re-election to the same office shall also have "(Incumbent)" printed on the ballot, immediately after that person's name.

(e) The statement of qualifications for office may include information on a candidate's education, work experience, years of service, and other relevant qualifications and shall not exceed 300 words in length. The official ballot shall include a disclaimer stating that neither the Department nor the City Clerk has verified the accuracy of the information contained in the candidates' statements of qualifications.

(f) Interested candidates may submit their candidate packets to the City Clerk by United States mail. Alternatively, interested candidates may personally deliver their candidate packets to the City Clerk during regular business hours in the seven business days preceding the specified due date. All candidate packets must be received by the City Clerk no later than 5:00 p.m. on the due date.

(g) Occupational ballot statements and statements of qualifications that are submitted by the due date will be printed by the City Clerk and mailed with the ballot at no expense to the candidate. Should any candidate fail to submit an occupational ballot designation or a statement of qualifications by the due date, the appropriate sections for the occupational ballot designation and the statement of qualifications shall remain blank.

(h) Each ballot shall contain the names of all qualified candidates, listed by surname. There shall be a blank space beneath the final name in which voters may write the name of any member of the applicable department not printed on the ballot and for whom they wish to vote.

(i) On the second business day following the due date for candidate packets, the City Clerk shall conduct a public drawing of the letters of the alphabet. The order by which the letters are drawn shall constitute the random alphabetical order by which the surnames of the qualified candidates shall be arranged on the ballot. For the purpose of ordering candidates by surname, the term "surname" shall mean the name borne in common by members of a family.

Sec. 23.102.4. Notice of Election.

(a) Not more than 90 nor fewer than 60 calendar days prior to the regular election, the Board shall notify the City Clerk and the General Manager of the Personnel Department of the fact of the election.

(b) Not more than 30 nor fewer than 20 calendar days prior to the regular election, the Board shall have caused to be prepared a Notice of Election specifying the election date, a sample ballot containing the name of each qualified candidate, rules concerning eligibility to vote, and any additional information and instructions as the City Clerk may determine. A copy of the Notice of Election and sample ballot shall be posted at the Office of the City Clerk.

Sec. 23.102.5. Observers.

Qualified candidates whose names appear on the election ballot may each designate no more than two observers to observe that ballots are properly cast and votes are properly counted. In addition to these designated observers, candidates may also observe. Names of all designated observers, including any candidates who intend to observe, shall be presented to the City Clerk no less than three calendar days prior to the election. Designated observers and candidates present for the ballot count shall wear identification badges at all times and shall be subject to all applicable regulations established by the City Clerk.

Sec. 23.102.6. Voting Procedure.

(a) The City Clerk shall mail a ballot packet for the election to each eligible voter listed on the primary roster supplied by the General Manager. The mailing shall be completed no less than ten calendar days prior to the date of election.

(b) Those persons who become eligible employee members of the Police or Fire Department within 30 days prior to an election, who wish to vote in the election of an employee member for their respective department, shall present themselves at the Office of the City Clerk no earlier than seven business days prior to and no later than 5:00 p.m. on the day of the election, with a certificate from the Personnel Department, on a form approved by the City Clerk, verifying their employment. The City Clerk shall allow such members to vote.

(c) Each ballot packet mailed or provided to voters shall consist of the following items:

- (1) A mailing envelope;
- (2) A return envelope;
- (3) The official ballot;

(4) An identification envelope for the official ballot with space for the voter to affix their name, mailing address, last four digits of their social security number, signature, and date of signing;

(5) A list of voter instructions; and

(6) The candidates' statements of qualifications, if any.

(d) Upon voting the ballot, the voter shall enclose the ballot in the identification envelope. The voter shall affix the voter's name, address, last four digits of the voter's social security number, signature, and date of signing on the identification envelope containing the ballot, and shall enclose the ballot in the return envelope. The voter shall return the voted ballot to the City Clerk by United States mail or in person. During regular hours in the seven business days preceding the election, but no later than 5:00 p.m. on Election Day, voters may personally deposit their ballot in the election box in the Office of the City Clerk. All ballots shall, in order to be counted, be received by the City Clerk no later than 5:00 p.m. on the date of the election.

(e) If a voter inadvertently spoils a ballot, the voter may return the spoiled ballot to the City Clerk, who shall furnish the voter with a replacement ballot. No more than two replacement ballots shall be issued to the same voter. Spoiled ballots shall be clearly marked "**SPOILED**."

(f) If a voter on the roster claims to not have received a ballot, the voter may receive a replacement ballot from the City Clerk upon filing a signed affidavit claiming non-receipt. The identification envelope of the replacement ballot shall be prominently marked "**REPLACEMENT BALLOT**," and the original ballot issued to the voter shall be challenged by the City Clerk, if received.

Sec. 23.102.7. Verification of Identification Envelopes and Challenges.

(a) Upon receipt of the identification envelope and its contents, the City Clerk shall date-stamp the envelope, verify the name, the last four digits of the social security number, and address appearing on the roster of eligible voters and shall mark the roster to show that the member has voted. No identification envelope shall be opened prior to the commencement of the ballot count.

(b) The City Clerk may challenge a returned ballot upon the following grounds:

(1) The identification envelope is not properly completed according to the instructions and does not accurately identify the voter;

(2) The voter did not include the correct last four digits of their social security number;

(3) The voter did not properly sign the identification envelope;

- (4) The voter's name does not appear on the primary roster;
 - (5) The identification envelope was not received by the City Clerk by 5:00 p.m. on the date of the election;
 - (6) The voter has retired, resigned, or otherwise lost status as an eligible voter within 30 calendar days prior to the election, as indicated by the General Manager to the City Clerk; or
 - (7) The voter has already voted a ballot.
- (c) An authorized observer, prior to the time that the identification envelope is opened, may challenge the eligibility of any person to vote in the election. Challenges by observers may be made only upon the following grounds:
- (1) The identification envelope was not signed by the person whose name appears on the roster;
 - (2) The voter's status as an eligible member has changed since being certified by the Personnel Department; or
 - (3) The voter's name does not appear on the roster.
- (d) Each identification envelope that is challenged shall have written on the envelope the word "**Challenge**," the reason for the challenge, and the signature of the person issuing the challenge. Those challenged envelopes shall not be opened, and the ballots they contain shall not be counted.
- (e) The City Clerk shall, with substantiating evidence, sustain or overrule the challenge. If substantiating evidence is not produced within three days of the election, the challenge shall be overruled and the ballot shall be counted with the other ballots. Identification envelopes whose challenges have been sustained shall not be included in the ballot count and shall be retained unopened by the City Clerk for a minimum of 90 calendar days after the election results are certified.

Sec. 23.102.8. Counting Ballots.

- (a) The City Clerk shall count ballots in accordance with procedures used by the City Clerk to count ballots for other similar elections. Only the City Clerk may handle ballots. All ballots counted and uncounted shall be kept in view of the authorized observers at all times and until the unofficial results are finalized.
- (b) If a ballot is torn, defaced, marked in an ambiguous fashion, or is otherwise defective, the City Clerk shall determine whether the intent of the voter can be reasonably determined and, if so, determine it. If intent cannot be reasonably

determined or if the ballot directly or indirectly identifies the voter, the ballot shall be declared void by the City Clerk and shall be preserved for a period of 90 calendar days.

(c) After preparing the official certified results, the City Clerk will ensure that the ballots are secured in a location for a minimum of 90 calendar days where the ballots and identification envelopes may not be removed by anyone other than the City Clerk for election related reasons.

Sec. 23.102.9. The Results of the Election.

(a) In the regular election, the candidate who receives a majority (at least 50% plus one) of all votes cast shall be elected to the position of employee member for the applicable department based on the certified results provided by the City Clerk. The candidate(s) shall be notified of the election results, such notice to be given no less than five days prior to the beginning of the ensuing term.

(b) In the regular election, should no candidate receive a majority of all votes cast, the City Clerk shall cause the names of the two candidates receiving the highest number of votes cast be placed on a ballot to be voted on in a runoff election. The runoff election shall be conducted in the same manner as the primary election and shall be conducted not more than 45 nor fewer than 30 calendar days after the date of certification of the regular election. Both candidates' statements of qualifications will be sent with each ballot. The General Manager will provide the City Clerk with a new certified roster of all eligible members as of 30 days prior to the runoff election. A supplemental list of voters who lost membership after the runoff list was prepared will be provided to the City Clerk as of the date of the runoff election.

(c) In the event that two or more candidates in the regular election receive an equal number of votes cast, and the number of votes cast is sufficient to entitle each of them to appear upon the ballot of the runoff election, or in the event that both candidates in the runoff election receive an equal number of votes cast, then the following procedures shall be used:

(1) In a regular election, if two candidates are tied for the most votes cast, then both shall be in the runoff election.

(2) In a regular election, if more than two candidates are tied for the most votes cast, then the candidates receiving an equal number of votes shall appear before the City Clerk at the time and place designated by the City Clerk and draw lots to determine the top two to be in the runoff election. The City Clerk shall determine the manner in which the lots shall be drawn and, in the event any candidates involved do not appear at the drawing of the lot, the City Clerk shall act for the absent person(s) in the drawing of the lots.

(3) In a regular election, if two or more candidates are tied for the second highest number of votes cast, then the City Clerk shall use the lot-drawing procedure to choose the second candidate for the runoff election.

(4) In a regular election, should either or both of the two candidates receiving the highest number of votes cast at the initial election for any reason cease to be a member of the department prior to the printing of the ballots for the runoff election, the name or names of the candidate or candidates receiving the next highest number of votes cast shall be printed upon the runoff election ballot.

(5) In a runoff election, in the case of a tie, the City Clerk shall determine which person shall be declared elected from the tied candidates by using the lot-drawing procedure.

Sec. 23.102.10. Special Election.

(a) In the event that an employee member of the Board has submitted a letter of resignation or the office becomes vacant by virtue of death, retirement, termination of employment, or for any other reason, the City Clerk shall conduct a special election to fill the unexpired term. However, no special election shall be held when a regular election is scheduled to take place within six months or less from the date of when the special election is held.

(b) The Board shall designate the date of the election. The election shall be held not more than 90 nor fewer than 60 calendar days after the submission of the letter of resignation or the receipt of notification of the vacancy. Candidates to be voted on at any special election shall be nominated in the same manner provided in this article, but the Notice of Intent shall clearly advise employee members that the election is for the balance of the unexpired term and specify the ending date of that term. The special election to fill the unexpired term shall be conducted in the same manner as a regular election, except as otherwise provided in this section.

(c) If any candidate in a special election receives a plurality of all votes cast, that candidate shall be declared by the Board to be elected to the position of employee member for the unexpired term.

(d) In the event that two or more candidates receive an equal number of votes cast, and no candidate receives more votes cast, then the candidates receiving an equal number of votes cast shall appear before the City Clerk at the time and place designated by the City Clerk in order to draw lots to determine which person shall be declared elected. The lots shall be drawn in a manner designated by the City Clerk. In the event that any candidate involved does not appear, the City Clerk shall act for the absent person(s) in the drawing of the lots. The candidate who is selected by lot shall be declared by the Board to be elected to the position of employee member for the remainder of the unexpired term.

Sec. 23.102.11. Certification and Report of Results.

The City Clerk shall, within 14 calendar days after the date of the election, furnish to the Board the official certified results of the election.

Sec. 23.102.12. Declaration of Results.

The Board shall declare the results of every election based on the City Clerk's official certified results of the election.

Sec. 23.102.13. Recall Procedure.

(a) An employee member of the Board may be removed from office, and the procedure to effect the removal of an incumbent from office shall be known as the recall. A recall will be prohibited if any of the following conditions exist for the employee member of the Board: 1) the member has held the current term of office for less than three months; 2) the current term of office expires within six months; or 3) there has been a previous recall election for the same person within six months.

(b) Proponents of the recall must be current employee members of the Department from which the incumbent was elected. To initiate a recall, proponents shall prepare a Notice of Intention (Notice) to do so. The City Clerk shall specify the required format and contents of the Notice. The Notice shall be accompanied by a typed Statement of Reasons (Statement) for the proposed recall, not exceeding 300 words in length. The sufficiency of such Statement shall not be subject to review. The Notice and Statement shall be submitted to the City Clerk and shall be posted at the City Clerk. On the same day that they are submitted to the City Clerk, this Notice and Statement shall be served upon or sent by certified mail to the employee member of the Board who is the subject of the proposed recall. The recall proponents shall submit to the City Clerk proof of service within five business days of serving the employee member of the Board.

(c) Within 14 calendar days after the posting of the Notice and Statement, the employee member sought to be recalled, or anyone upon their behalf, may prepare a typed Answer to the Statement (Answer). This Answer shall not exceed 300 words in length and shall be posted with the Notice and Statement at the City Clerk. The Answer is intended solely for the information of the voters and no insufficiency in the form or substance thereof shall affect in any manner the validity of the proceedings required under this section.

(d) In addition to the Notice and Statement, a recall petition must be signed by 20% of the employee members of the department from which the incumbent was elected. Such petition shall be addressed to the Board and filed with the City Clerk. It shall request that the question of whether the incumbent shall be removed from office by a vote of such members be submitted to the members of the corresponding

department. The petition shall also state that, in the event the incumbent is removed by majority vote, a concurrent election of a successor shall be held.

(e) Twenty-one (21) calendar days after the posting of the Notice and Statement in the City Clerk, the petition demanding the recall of the employee member of the Board may be circulated among the eligible voters for the securing of signatures. The petition shall bear a copy of the posted Notice, accompanying Statement, and the Answer, if one has been submitted. If no Answer has been submitted, the petition shall so state. Recall proponents shall obtain the necessary number of signatures and file the petition with the City Clerk within six weeks from the date the Notice was posted at the City Clerk.

(f) The City Clerk shall specify the form and mode of signing, filing, examining, certifying, and presenting the petition to the Board. The proponents of the recall shall be fully responsible for ensuring petitions are complete in every detail and in proper form when filed with the City Clerk. The City Clerk shall verify and certify the sufficiency of the signatures on the petition.

(g) If the City Clerk determines the petition to be sufficient, the City Clerk shall, without undue delay, prepare a Certification of Sufficiency (Certification) indicating the basis for the City Clerk's determination and the date it was made. The City Clerk shall present this Certification to the Board and the recall proponents. Upon receipt of the Certification, the Board shall order the holding of a special election. The election will ask whether such employee member shall be recalled, and if recalled, will also call for the concurrent election of their successor. Unless otherwise specified herein, a special election conducted pursuant to this section shall conform to the provisions contained in Section 23.102.10.

(h) The recall election shall be held not more than 90 nor fewer than 60 calendar days after the City Clerk has presented the Certification to the Board.

(i) Any employee member seeking to be a successor candidate placed on the recall election ballot, other than the incumbent sought to be removed, may be nominated by completing a Notice of Intent. The Notice of Intent shall conform to the provisions of Section 23.102.3.

(j) The recall election ballot shall provide for votes on the recall and a successor candidate and shall include both the Statement prepared by the recall proponents and the Answer prepared by or on behalf of the employee member sought to be recalled.

(k) The recall vote shall ask, "Shall (inserting the name of the employee member sought to be removed) be removed from the office of elected employee member on the Board of Fire and Police Pension Commissioners?" The question should be followed by checkboxes labeled "Yes" and "No."

(l) Beneath the recall vote shall appear the names of all qualified candidates who have been nominated to complete the unexpired term of office if a majority of eligible voters vote to recall the incumbent.

(m) If a majority of eligible voters vote "No," said incumbent shall continue in office. If a majority of eligible voters vote "Yes," said incumbent shall thereupon be deemed recalled. In the event the incumbent is recalled, then the successor candidate who has received a plurality of all votes cast for the office shall be thereby declared elected for the remainder of the unexpired term.

(n) A recalled incumbent shall continue to perform the duties of office until such time as the Board shall declare the result of the recall election. Following the Board's declaration, the incumbent shall be removed from office and the successor candidate shall be installed in the incumbent's place.

Sec. 23.102.14. Rules and Regulations.

The Board is hereby authorized to adopt such rules and regulations, consistent with the provisions of this article, as may be necessary to implement the provisions thereof.

Sec. 23.102.15. Protests.

Any interested person may challenge any proceeding, act or omission which may be material to the election, by written notice to the City Clerk not later than three business days after the unofficial results are completed. The City Clerk will review the protest(s) and submit a report of findings and recommendations to the Board with the official certified election results within 14 days after the election.

Sec. 2. Article 5.5 of Chapter 5, Division 23, of the Los Angeles Administrative Code is amended in its entirety to read as follows:

ARTICLE 5.5

ELECTED RETIRED MEMBERS OF THE BOARD

Section. 23.103. Definitions.

For purposes of this article, the following words and phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated by the context.

(a) "**Board**" shall mean the Board of Fire and Police Pension Commissioners.

(b) "**City Clerk**" shall mean the Office of the City Clerk.

(c) **“Department”** shall mean the Department of Fire and Police Pensions.

(d) **“General Manager”** shall mean the General Manager of the Department of Fire and Police Pensions.

(e) **“Retired Member of Police Department”** shall mean a Retired Plan Member of the Police Department whose active duty status has been terminated as defined in Charter Section 1202(f).

(f) **“Retired Member of Fire Department”** shall mean a Retired Plan Member of the Fire Department whose active duty status has been terminated as defined in Charter Section 1202(f).

Sec. 23.103.1. Term of Office.

The terms of the two retired members of the Board shall be five years beginning on the first day in July of the year for their respective elections. One retired member shall be elected by eligible retired members of the Fire Department, and one shall be elected by eligible retired members of the Police Department. The terms of the retired members shall be staggered.

Sec. 23.103.2. Elections: General.

(a) All elections shall be by secret ballot and shall be conducted by the City Clerk. The Department shall reimburse the City Clerk for all necessary expenses incurred in the administration of elections.

(b) Regular elections shall be held by May 31 of each year in which the term of office of a retired elected member of the Board expires. Runoff and Special Elections shall be held on dates as authorized by the Board.

(c) Eligible voters shall be only those who, on the date of the election, are retired members of the department from which the candidate retired. The General Manager shall provide to the City Clerk, 30 calendar days prior to the election, a primary roster of eligible voters certified by the Department. The certified primary roster shall contain the name, address, and last four digits of the social security number of each eligible voter, listed in alphabetical order by surname. The certified primary roster shall be as up-to-date as possible.

(d) On the date of the election, the General Manager shall provide to the City Clerk a supplemental roster certified by the Department listing persons who, subsequent to the generation of the certified primary roster, lost their status as an eligible voter, together with the last four digits of their social security numbers. Anyone whose name appears on this supplemental roster shall be deemed removed from the primary roster.

Sec. 23.103.3. Nomination of Candidates and Preparation of the Official Ballot.

(a) Only retired members are eligible to be elected to the position of retired member for their respective department.

(b) Not more than 90 calendar days nor fewer than 60 calendar days prior to the regular election, the City Clerk shall notify by mail all retired members of the department with the vacancy for retired member of the Board that candidates are being sought to run for the position of that department's retired member of the Board. This notification shall instruct retired members interested in becoming a candidate to submit a completed Notice of Intent to run for office. The City Clerk shall prepare the Notice of Intent form no less than seven weeks prior to an election.

(c) Along with the submission of the Notice of Intent, interested candidates have the option to include an occupational ballot designation and a typed statement of qualifications for office. The completed Notice of Intent, optional ballot designation and statement of qualifications, known as the candidate packet, shall be submitted to the City Clerk within the due date specified in the notification in order for candidates to have their names placed on the ballot.

(d) The occupational ballot designation for each qualifying candidate shall be printed on the ballot, immediately under that candidate's name and shall consist of a three-word designation of either (a) the current principal profession, vocation or occupation of the candidate, or (b) the principal profession, vocation or occupation of the candidate during the calendar year immediately preceding the filing of the candidate's Notice of Intent form. A candidate who is running for re-election to the same elective office shall also have "(Incumbent)" printed on the ballot, immediately after that person's name.

(e) The statement of qualifications for office may include information on a candidate's education, work experience, years of service, date of retirement, and other relevant qualifications and shall not exceed 300 words in length. The official ballot shall include a disclaimer stating that neither the Department nor the City Clerk has verified the accuracy of the information contained in the candidates' statements of qualifications.

(f) Interested candidates may submit their candidate packets to the City Clerk by United States mail. Alternatively, interested candidates may personally deliver their candidate packets to the City Clerk during regular business hours in the seven business days preceding the specified due date. All candidate packets must be received by the City Clerk no later than 5:00 p.m. on the due date.

(g) Occupational ballot statements and statements of qualifications that are submitted by the due date will be printed by the City Clerk and mailed with the ballot at no expense to the candidate. Should any candidate fail to submit an occupational ballot designation or a statement of qualifications by the due date, the appropriate sections for

the occupational ballot designation and the statement of qualifications shall remain blank.

(h) Each ballot shall contain the names of all qualified candidates, listed by surname. There shall be a blank space beneath the final name in which voters may write the name of any retired member of the department not printed on the ballot and for whom they wish to vote.

(i) On the second business day following the due date for candidate packets, the City Clerk shall conduct a public drawing of the letters of the alphabet. The order by which the letters are drawn shall constitute the random alphabetical order by which the surnames of the qualified candidates shall be arranged on the ballot. For the purpose of ordering candidates by surname, the term "surname" shall mean the name borne in common by members of a family.

Sec. 23.103.4. Notice of Election.

(a) Not more than 90 nor fewer than 60 calendar days prior to the regular election, the Board shall notify the City Clerk of the fact of the election.

(b) Not more than 30 nor fewer than 20 calendar days prior to the regular election, the Board shall prepare a Notice of Election specifying the election date, a sample ballot containing the name of each qualified candidate, rules concerning eligibility to vote, and any additional information and instructions as the City Clerk may determine. A copy of the Notice of Election and sample ballot shall be posted at the Office of the City Clerk.

Sec. 23.103.5. Observers.

Qualified candidates whose names appear on the election ballot may each designate no more than two observers to observe that ballots are properly cast and votes are properly counted. In addition to these designated observers, candidates may also observe. Names of all designated observers, including any candidates who desire to observe, shall be presented to the City Clerk no less than three calendar days prior to the election. Designated observers and candidates present for the ballot count shall wear identification badges at all times and shall be subject to all applicable regulations established by the City Clerk.

Sec. 23.103.6. Voting Procedure.

(a) The City Clerk shall mail a ballot packet for the election to each eligible voter listed on the primary roster supplied by the General Manager. The mailing shall be completed no less than ten calendar days prior to the date of the election.

(b) Those members who become eligible by retiring within 30 days prior to an election, who wish to vote in the election of a retired member for their respective

departments, shall present themselves at the Office of the City Clerk no earlier than seven business days prior to and no later than 5:00 p.m. on the day of the election, with a certificate from the Department, on a form approved by the City Clerk, verifying the fact of their eligibility to vote. The City Clerk shall allow such members to vote.

(c) Each ballot packet mailed or provided to voters shall consist of the following items:

- (1) A mailing envelope;
- (2) A return envelope;
- (3) The official ballot;
- (4) An identification envelope for the official ballot with space for the voter to affix their name, mailing address, last four digits of their social security number, signature, and date of signing;
- (5) A list of instructions to the voter; and
- (6) The candidates' statements of qualifications, if any.

(d) Upon voting the ballot, the voter shall enclose the ballot in the identification envelope. The voter shall affix the voter's name, mailing address, last four digits of the voter's social security number, signature, and date of signing on the identification envelope containing the ballot, and shall enclose the ballot in the return envelope. The voter shall return the voted ballot to the City Clerk by United States mail or in person. During regular business hours in the seven business days preceding the election, but no later than 5:00 p.m. on Election Day, voters may personally deposit their ballot in the ballot box at the Office of the City Clerk. All ballots must, in order to be counted, be received by the City Clerk no later than 5:00 p.m. on the date of the election.

(e) If a voter inadvertently spoils a ballot, the voter may return the spoiled ballot to the City Clerk, who shall furnish the voter with a replacement ballot. No more than two replacement ballots may be issued to the same voter. Spoiled ballots will be clearly marked "**SPOILED.**"

(f) If a voter on the roster claims not to have received a ballot, the voter may receive a replacement ballot from the City Clerk upon filing a signed affidavit claiming non-receipt. The identification envelope of the replacement ballot shall be prominently marked "**REPLACEMENT BALLOT,**" and the original ballot issued to the voter shall be challenged by the City Clerk, if received.

Sec. 23.103.7. Verification of Identification Envelopes and Challenges.

(a) Upon receipt of the identification envelope and its contents, the City Clerk shall date-stamp the envelope, verify the name, the last four digits of the social security number, and address appearing on the roster of eligible voters, and shall mark the roster to show that the member has voted. No identification envelope shall be opened prior to the commencement of the ballot count.

(b) The City Clerk may challenge a returned ballot upon the following grounds:

(1) The identification envelope is not properly completed according to the instructions and does not accurately identify the voter;

(2) The voter did not include the correct last four digits of their social security number;

(3) The voter did not properly sign the identification envelope;

(4) The voter's name does not appear on the primary roster;

(5) The identification envelope was not received by the City Clerk by 5:00 p.m. on the date of the election;

(6) The voter was reinstated as an employee member, has died or otherwise lost status as an eligible voter within 30 calendar days prior to the election, as indicated by the General Manager to the City Clerk; or

(7) The voter has already voted a ballot.

(c) An authorized observer, prior to the time that the identification envelope is opened, may challenge the eligibility of any person to vote in the election. Challenges by observers may be made only upon the following grounds:

(1) The identification envelope was not signed by the person whose name appears on the roster;

(2) The voter's status as an eligible member has changed since being certified by the Department; or

(3) The voter's name does not appear on the roster.

(d) Each identification envelope that is challenged shall have written on the envelope the word "**Challenge**," the reason for the challenge, and the signature of the person issuing the challenge. Those challenged envelopes shall not be opened, and the ballots they contain shall not be counted.

(e) The City Clerk shall, with substantiating evidence, sustain or overrule the challenge. If substantiating evidence is not produced within three days of the election, the challenge shall be overruled and the ballot shall be counted with the other ballots. Identification envelopes whose challenges have been sustained shall not be included in the ballot count and shall be retained unopened by the City Clerk for a minimum of 90 calendar days after the election results are certified.

Sec. 23.103.8. Counting Ballots.

(a) The City Clerk shall count ballots in accordance with procedures used by the City Clerk to count ballots for other similar elections. Only the City Clerk may handle ballots. All ballots counted and uncounted shall be kept in view of the authorized observers at all times and until the unofficial results are finalized.

(b) If a ballot is torn, defaced, marked in an ambiguous fashion, or is otherwise defective, the City Clerk shall determine whether the intent of the voter can be reasonably determined and, if so, determine it. If intent cannot be reasonably determined or if the ballot directly or indirectly identifies the voter, the ballot shall be declared void by the City Clerk and shall be preserved for a period of 90 calendar days.

(c) After preparing the official certified results, the City Clerk will ensure that the ballots are secured in a location for a minimum of 90 calendar days where the ballots and identification envelopes may not be removed by anyone other than the City Clerk for election related reasons.

Sec. 23.103.9. The Results of the Election.

(a) In the regular election, the candidate who receives a majority (at least 50% plus one) of all votes cast by retired members of the applicable department shall be elected to the position of retired member for the applicable department based on the certified results provided by the City Clerk. The candidate(s) shall be notified of the election results, such notice to be given no less than five days prior to the beginning of the ensuing term.

(b) In the regular election, should no candidate receive a majority of all votes cast, the City Clerk shall cause the names of the two candidates receiving the highest number of votes cast to be placed on a ballot to be voted on in a runoff election. The runoff election shall be conducted in the same manner as the primary election and shall be conducted not more than 45 nor fewer than 30 calendar days after the date of certification of the regular election. Both candidates' statements of qualifications will be sent with each ballot. The General Manager will provide the City Clerk with a new certified roster of all eligible retired members as of 30 days prior to the runoff election. A supplemental list of voters who lost membership after the runoff list was prepared will be provided to the City Clerk as of the date of the runoff election.

(c) In the event that two or more candidates in the regular election receive an equal number of votes cast, and the number of votes cast is sufficient to entitle each of them to appear upon the ballot of the runoff election, or in the event that both candidates in the runoff election receive an equal number of votes cast, then the following procedures shall be used:

(1) In a regular election, if two candidates are tied for the most votes cast, then both shall be in the runoff election.

(2) In a regular election, if more than two candidates are tied for the most votes cast, then the candidates receiving an equal number of votes shall appear before the City Clerk at the time and place designated by the City Clerk and draw lots to determine the top two to be in the runoff election. The City Clerk shall determine the manner in which the lots shall be drawn and in the event that any candidates involved do not appear at the drawing of the lot, the City Clerk shall act for the absent person(s) in the drawing of the lots.

(3) In a regular election, if two or more candidates are tied for the second highest number of votes cast, then the City Clerk shall use the lot-drawing procedure to choose the second candidate for the runoff election.

(4) In a regular election, should either or both of the two candidates receiving the highest number of votes cast for any reason cease to be a retired member of the department prior to the printing of the ballots for the runoff election, the name or names of the candidate or candidates receiving the next highest number of votes cast shall be printed on the runoff election ballots.

(5) In a runoff election, in the case of a tie, the City Clerk shall determine which person shall be declared elected from the tied candidates by using the lot-drawing procedure.

Sec. 23.103.10. Special Election.

(a) In the event that a retired member of the Board has submitted a letter of resignation or the office becomes vacant by virtue of death, disability, or for any other reason, the City Clerk shall conduct a special election to fill the unexpired term. However, no special election shall be held when a regular election is scheduled to take place within six months or less from the date of when the special election is held.

(b) The Board shall designate the date of the election. The election shall be held not more than 90 nor fewer than 60 calendar days after the submission of the letter of resignation or the receipt of notification of the vacancy. Candidates to be voted on at any special election shall be nominated in the same manner provided in this article, but the Notice of Intent form shall clearly advise retired members that the election is for the balance of the unexpired term and specify the ending date of that term. The special

election to fill the unexpired term shall be conducted in the same manner as a regular election, except as otherwise provided in this section.

(c) If any candidate in a special election receives a plurality of all votes cast, the candidate shall be declared by the Board to be elected to the position of retired member for the unexpired term.

(d) In the event that two or more candidates receive an equal number of votes cast, and no candidate receives more votes cast, then the candidates receiving an equal number of votes cast shall appear before the City Clerk at the time and place designated by the City Clerk in order to draw lots to determine which person shall be declared elected. The lots shall be drawn in the manner the City Clerk determines. In the event that any candidate involved does not appear, the City Clerk shall act for the absent person(s) in the drawing of the lots. The candidate who is selected by lot shall be declared by the Board to be elected to the position of retired member for the unexpired term.

Sec. 23.103.11. Certification and Report of Results.

The City Clerk shall, within 14 calendar days after the date of the election, furnish to the Board the official certified results of the election.

Sec. 23.103.12. Declaration of Results.

The Board shall declare the results of any election based on the City Clerk's official certified results of the election.

Sec. 23.103.13. Recall Procedure.

(a) A retired member of the Board may be removed from office, and the procedure to effect the removal of an incumbent from office shall be known as the recall. A recall will be prohibited if any of the following conditions exist for the retired member of the Board: 1) the member has held the current term of office for less than three months; 2) the current term of office expires within six months; or 3) there has been a previous recall election for the same person within six months.

(b) Proponents of the recall must be current retired members of the Department from which the incumbent was elected. To initiate a recall, proponents shall prepare a Notice of Intention (Notice) to do so. The City Clerk shall specify the required format and contents of the Notice. The Notice shall be accompanied by a typed Statement of Reasons (Statement) for the proposed recall, not exceeding 300 words in length. The sufficiency of such Statement shall not be subject to review. The Notice and Statement shall be submitted to the City Clerk and shall be posted at the City Clerk. On the same day that they are submitted to the City Clerk, this Notice and Statement shall be served upon or sent by certified mail to the retired member of the Board who is the subject of the proposed recall. The recall proponents shall submit to

the City Clerk proof of service within five business days of serving the retired member of the Board.

(c) Within 14 calendar days after the posting of the Notice and Statement, the retired member sought to be recalled, or anyone upon their behalf, may prepare a typed Answer to the Statement (Answer). This Answer shall not exceed 300 words in length and shall be posted with the Notice and Statement at the City Clerk. The Answer is intended solely for the information of the voters and no insufficiency in the form or substance thereof shall affect in any manner the validity of the proceedings required under this section.

(d) In addition to the Notice and Statement, a recall petition must be signed by 20% of the retired members of the department from which the incumbent was elected. Such petition shall be addressed to the Board and filed with the City Clerk. It shall request that the question of whether the incumbent shall be removed from office by a vote of such members be submitted to the members of the corresponding department. The petition shall also state that, in the event the incumbent is removed by majority vote, a concurrent election of a successor shall be held.

(e) Twenty-one (21) calendar days after the posting of the Notice and Statement in the City Clerk, the petition demanding the recall of the retired member of the Board may be circulated among the eligible voters for the securing of signatures. The petition shall bear a copy of the posted Notice, accompanying Statement, and the Answer, if one has been submitted. If no Answer has been submitted, the petition shall so state. Recall proponents shall obtain the necessary number of signatures and file the petition with the City Clerk within six weeks from the date the Notice was posted at the City Clerk.

(f) The City Clerk shall specify the form and mode of signing, filing, examining, certifying, and presenting the petition to the Board. The proponents of the recall shall be fully responsible for ensuring petitions are complete in every detail and in proper form when filed with the City Clerk. The City Clerk will verify and certify the sufficiency of the signatures on the petition.

(g) If the City Clerk determines the petition to be sufficient, the City Clerk shall, without undue delay, prepare a Certification of Sufficiency (Certification) indicating the basis for the City Clerk's determination and the date it was made. The City Clerk shall present this Certification to the Board and the recall proponents. Upon receipt of the Certification, the Board shall order the holding of a special election. The election will ask whether such retired member shall be recalled, and if recalled, will also call for the concurrent election of their successor. Unless otherwise specified herein, a special election conducted pursuant to this section shall conform to the provisions contained in Section 23.103.10.

(h) The recall election shall be held not more than 90 nor fewer than 60 calendar days after the City Clerk has presented the Certification to the Board.

(i) Any candidate to be voted for in a recall election, other than the incumbent sought to be removed, may be nominated by completing a Notice of Intent. This Notice shall conform to the provisions of Section 23.103.3.

(j) The recall election ballot shall provide for votes on the recall and a successor candidate and shall include both the Statement prepared by the recall proponents and the Answer prepared by or on behalf of the retired member sought to be recalled.

(k) The recall vote shall ask, "Shall (inserting the name of the retired member sought to be removed) be removed from the office of elected retired member on the Board of Fire and Police Pension Commissioners?" The question should be followed by checkboxes labeled "Yes" and "No."

(l) Beneath the recall vote shall appear the names of all qualified candidates who have been nominated to complete the unexpired term of office if a majority of eligible voters votes to recall the incumbent.

(m) If a majority of eligible voters vote "No," said incumbent shall continue in office. If a majority of eligible voters vote "Yes," said incumbent shall thereupon be deemed recalled. In the event the incumbent is recalled, then the successor candidate who has received a plurality of all votes cast for the office shall be thereby declared elected for the remainder of the unexpired term.

(n) A recalled incumbent shall continue to perform the duties of office until such time as the Board shall declare the result of the recall election. Following the Board's declaration, the incumbent shall be removed from office and the successor candidate shall be installed in the incumbent's place.

Sec. 23.103.14. Rules and Regulations.

The Board is hereby authorized to adopt such rules and regulations, consistent with the provisions of this article, as may be necessary to implement the provisions thereof.

Sec. 23.103.15. Protests.

Any interested person may challenge any proceeding, act or omission which may be material to the election, by written notice to the City Clerk not later than three business days after the count of the ballots. The City Clerk will review the protests and submit a report of findings and recommendations to the Board with the official certified election results within 14 calendar days after the election.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
JOSHUA M. GELLER
Deputy City Attorney

Date 11/16/16

File No. CF 04-2115