

**DEPARTMENT OF
FIRE AND POLICE
PENSIONS**

701 E. 3RD STREET
SUITE 200
LOS ANGELES, CA 90013

(213) 279-3000 (Main Line)
(844) 88-LAFPP (52377) - TOLL FREE
FAX (213) 628-7716
TDD (213) 628-7713

EMAIL: PENSIONS@LAFPP.COM

CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI
MAYOR

RAYMOND P. CIRANNA
GENERAL MANAGER

WILLIAM S. RAGGIO
EXECUTIVE OFFICER

JOSEPH SALAZAR
ASSISTANT GENERAL MANAGER

TOM LOPEZ
CHIEF INVESTMENT OFFICER

October 6, 2016

Hon. Herb J. Wesson, Jr.
President, Los Angeles City Council
200 N. Spring Street, Room 430
Los Angeles, CA 90012

Dear President Wesson:

The Board of Fire and Police Pension Commissioners (Board) is requesting the City Council to revise the Los Angeles Administrative Code (LAAC), Division 23, Chapter 5, Article 5.0 Employee Members of the Board and Article 5.5 Retired Elected Members of the Board. These recommended LAAC changes concern election procedures for the Board and include clarifying and standardizing the LAAC language so that the employee and retired member election processes, to the extent possible, are written consistently.

RECOMMENDATION

That the City Council:

1. Approve the recommended changes to the Los Angeles Administrative Code (LAAC), Division 23, Chapter 5, Article 5.0 Employee Members of the Board and Article 5.5 Retired Elected Members of the Board; and,
2. Request the City Attorney to finalize the draft Administrative Code language and submit to the City Council for approval.

BACKGROUND

On September 1, 2016, the Board approved proposed revisions to the election procedures in the Los Angeles Administrative Code (LAAC), Division 23, Chapter 5, Articles 5.0 Employee Members of the Board and 5.5 Retired Elected Members of the Board. The employee member elections were originally codified in the LAAC in 1972, with additional updates in 1995 and 2000. The retired member elections were originally codified in the LAAC in 2000, with some minor updates in 2004. All changes to the LAAC require City Council approval and both the City Clerk's Office and City Attorney's Office have reviewed these changes as approved by the Board.



Since the LAAC for the employee member and the retired member election processes were developed at different times, the formatting, language, organization, and terminology are not always consistent. This lack of consistency results in City staff, Los Angeles Fire and Police Pension members, stakeholders, and the public having to interpret and follow two sets of applicable requirements for election processes to ensure compliance. Recommended changes include standardizing the LAAC language so that the employee and retired member election processes, to the extent possible, are written alike.

In addition to standardizing and streamlining the elections process, the Board recommends the following major changes:

1. Election Dates: The required Tuesday election day is removed to allow for greater flexibility to hold and process elections. Regular employee member elections will be held by April 30th during an election year and regular retired member elections will be held by May 31st during an election year.
2. Nomination of Candidates: For the employee member election process, the ballot will be based on candidates submitting the "Notice of Intent" to run forms received in the City Clerk's office, eliminating the nominating petition election process. This change to the employee member election process would now be consistent with the retired member nomination process;
3. Observers: The number of observers during ballot counting performed by the City Clerk's Office increased from two to three to allow candidates to be observers while still having two additional observers at the ballot count;
4. Special Election Results: The basis for election result winners for retired member special elections for unexpired terms or recalls would change to plurality winner from majority winner to mirror the employee member special election process; and
5. Recall Procedure and Election: In order to initiate a retired member recall election, current procedures require that 10% of current retired eligible voters sign a recall petition. The Board approved a change that would now require 20% of current retired eligible voters to sign a petition initiating a recall election. Also, the retired member recall election process is revised to require a concurrent recall and successor election process. Finally, the basis for electing a retired member successor also changed from a majority winner to a plurality winner. These actions are consistent with the employee member recall process.

Attached to this request is a matrix (Attachment I) listing all the proposed changes to the LAAC. Significant changes are highlighted in bold on the matrix. Also attached is the proposed final version of the LAAC (Attachment II) and also a version (Attachment III) which identifies all changes against the current LAAC.

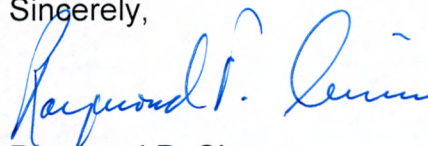
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It would be appreciated if consideration of this proposal could be expedited as it would simplify the process for the upcoming employee member of the Fire Department election scheduled for April 25, 2017.

I would also like to request that the City Attorney's Office assist in the preparation and transmittal of the draft ordinance required to make the necessary changes to the LAAC.

Please contact Stephanie Clements, Chief Management Analyst at (213) 279-3036 if further information is required.

Sincerely,



Raymond P. Ciranna,
General Manager

RPC:WSR:SHC

Attachments:

- I) Matrix of Proposed Changes to the Los Angeles Administrative Code (LAAC)
- II) LAAC, Division 23; Chapter 5; Articles 5 and 5.5 - final proposed version
- III) LAAC, Division 23; Chapter 5; Articles 5 and 5.5 – with changes tracked against the current LAAC

cc: Sharon Tso, Chief Legislative Analyst
Miguel A. Santana, City Administrative Officer

Los Angeles Fire and Police Pensions - Board of Commissioners
Employee and Retired Member Election Procedures
Summary of Proposed Changes to the Los Angeles Administrative Code (LAAC)

Attachment I

Item No.	Description	Article 5 Employee Members of Board Current Administrative Code Section 23.102 - 23.103.11*	Article 5.5 Retired Elected Members of the Board Current Administrative Code Section 23.103.12 - 23.103.25*	Staff Recommended Change	Which Election Does Change Impact?	Reason for Recommended Change
1	<u>General:</u> Masculine Pronouns	Mostly masculine pronouns used throughout Article 5.	Masculine and feminine pronouns used throughout Article 5.5.	Include feminine and masculine pronouns.	Employee Member Only	Updates language to current standards.
2	<u>General:</u> Terms	Some terms are outdated compared to the City's Election Code or are not consistent with terms used in Article 5.5 retired member election process.	Some terms are outdated compared to the City's Election Code or are not consistent with terms used in Article 5 active member election process.	Standardize terms to mirror terms used in City's Election Code and amongst employee and retired elections.	Both	Easier understanding of LAAC provisions.
3	<u>General:</u> Language	Language, at times, is outdated and excessively formal.	Language, at times, is outdated and excessively formal.	Convert to accessible, consistent, and plain language where possible.	Both	Easier understanding of LAAC provisions.
4	<u>General:</u> Formatting, Adding Subsections	Article 5 organized by Section.	Article 5.5 organized by Section.	Add Subsections within each Section (For example: change from Sections 23.103.13 to 23.103.13 (a), Section 23.103.13 (b), etc.)	Both	Ease of reference to identify specific paragraphs within each Section.
5	<u>General:</u> Section Titles	Article 5 Section Titles are not consistent with the Article 5.5 retired elected member Section Titles	Article 5.5 Section Titles are not consistent with the Article 5 employee elected member Section Titles.	Standardize, revise, and add Section Titles as listed in the 08/18/16 Board Report (Page 2). Specific Section Title revisions and additions discussed below.	Both	Ease of reference to provide consistency and standardized formatting with the Section Titles.
6	<u>LAAC Article Titles:</u> Article 5 and Article 5.5	LAAC Article 5 is entitled 'Employee Members of Board'.	LAAC Article 5.5 is entitled 'Retired Elected Members of the Board'.	Change Article 5 employee member title to 'Employee Elected Members of the Board' to match with retired member title.	Employee Member Only	Standardize titles amongst elections for easier understanding.

* Current Los Angeles Administrative Code (LAAC) is listed for reference.
Items in **bold** reflect the major changes referenced in the Council Letter request.

Los Angeles Fire and Police Pensions - Board of Commissioners
Employee and Retired Member Election Procedures
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7	<u>Definitions</u>	Terms defined: -Member of Fire Department -Member of Police Department -Board (Section 23.102.1)	Terms defined: -Board -Department -Retired Member of Fire Department -Retired Member of Police Department (Section 23.103.13)	Adds terms and definitions to Articles 5 and 5.5, as applicable: -City Clerk -Department -General Manager	Both	Ease of reference and allows for terms to be abbreviated within the Articles.
8	<u>Definitions</u>	The definition of employee members does not reference DROP participants. (Section 23.102.1)	The definition of retired members does not reference DROP participants. (Section 23.103.13)	Reference DROP participants in Article 5 employee member election. DROP participants can only run and/or vote in elected employee member elections.	Employee Member Only	Clarifies current procedures and explicitly clarifies which election DROP participants can run and/or vote.
9	<u>Term of Office:</u>	Includes information about how terms of each employee member are 5-year terms, how they are staggered, and that the terms of the first ever elected employee members shall be determined by lot at the first meeting of the Board at which both employee members are present. (Section 23.102)	Include simpler language describing the 5-year term and the type of retired elected member by Department. (Section 23.103.12)	Simplify term of office language listed in Article 5 employee member election.	Employee Member Only	Standardizes language amongst both election processes and removes historical information about the first ever election of the employee members.

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10	<u>Elections.</u> <u>General:</u> Regular Election Dates	The date of the election shall be <u>on</u> the last Tuesday in April, which could be the 4th or 5th Tuesday of the April and it doesn't specify which type of election would be held on that date (regular, runoff, or special). (Section 23.103.1)	Regular elections shall be held <u>by</u> the 4th Tuesday in May and it doesn't specify which type of election would be held on that date (regular, runoff, or special). (Section 23.103.14)	For Article 5 employee member elections, change to regular elections to be held <u>by</u> April 30th. For retired member elections, change to regular elections to be held <u>by</u> May 31st. Also, add language that special election dates are authorized by the Board.	Both	New change to current dates to provide greater flexibility to the Board and City Clerk on the election dates and clarify what election this date is referring. Also, standardizes language by stating that elections must be held by end of the month, either April or May depending on which election.
11	<u>Elections</u> <u>General:</u> Eligible Voters	Eligible voters shall be only those who are members of the Department of which the candidate is also a member. The LAAC does not specify a date when the voter needs to be an employee member of his/her respective Department in order to vote. (Section 23.103.1)	Eligible voters shall be only those who are members of the Department of which the candidate is also a member. The LAAC does not specify a date when the voter needs to be a retired member of his/her respective Department in order to vote. (Section 23.103.14)	Add to Articles 5 and 5.5 the phrase 'on the date of the election' to explicitly specify that a voter needs to be either an employee member or retired member <u>on the date of the election</u> in order to vote.	Both	Standardizes language and clarifies current procedures.

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12	<u>Elections:</u> <u>General:</u> Primary Employee Roster	City Controller provides primary LAPD/LAFD employee roster and mailing labels to the City Clerk for purposes of the election. (Section 23.103.1)	LAFPP provides retired member roster to City Clerk for purposes of the election. (Section 23.103.14.)	Change Article 5 employee member elections to remove Controller's role since LAFPP staff now have access to sworn employee data and has been providing to the City Clerk the primary LAPD/LAFD employee roster. Also, remove reference to mailing labels which are no longer required by City Clerk.	Employee Member Only	Updates LAAC Section to reflect current procedures.
13	<u>Elections:</u> <u>General:</u> Primary Employee Roster	For the employee roster that lists all eligible voters, full Social Security numbers are required to be listed on the primary roster provided to the City Clerk. (Section 23.103.1)	Full social security number not required on the primary roster. (Section 23.103.14)	Change to Article 5 employee elected members to require only the last four digits of each eligible voter's social security number will be listed.	Employee Member Only	Clarifies current procedures to ensure full social security numbers are not being provided.
14	<u>Nomination of</u> <u>Candidates:</u> Section Title Change	This Section discusses how candidates will be nominated (via nominating petitions) and addresses how the official ballot is prepared and what's included on the ballot. (Section 23.103)	This Section discusses how candidates are nominated (Notice of Intent to Run), it also addresses how the official ballot is prepared and what's included in the ballot. (Section 23.103.15)	Revise Title in Articles 5 and 5.5 from 'Nomination of Candidates' to 'Nomination of Candidates and Preparation of Official Ballot'.	Both	Expands title to more accurately reflect information included in this Section.

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15	<u>Nomination of Candidates:</u> Nominating Petitions	Nominating Petitions are required to become a candidate. Each candidate must obtain 100 signatures in order to have his/her name placed on the ballot. (Section 23.103)	Retired candidates must file a Notice of Intent to run for office and may include an occupational ballot designation and a statement of qualifications with the Office of the City Clerk in order to have his/her name placed on the ballot. (Section 23.103.15)	Simplify and standardize the processes, so that both elections have the same process to become a candidate. Employee member candidates will fill out a Notice of Intent to run form. The Nominating petition requiring signatures is no longer necessary.	Employee Member Only	Standardizes the nomination process for both elections.
16	<u>Nomination of Candidates:</u> Occupational Ballot Designation and Statement of Qualifications	There is no reference to what candidates may submit for inclusion on the ballot, which traditionally has consisted of an occupational ballot designation and 250-word statement of qualifications written by each candidate. (Section 23.103)	The LAAC states that interested candidates may submit a three-word occupational ballot designation and 250-word statement of qualifications, are referenced individually as well as under the term candidate packet(s). (Section 23.103.15)	Clarify the process of document submission process in Article 5 employee member elections, standardize the term 'candidate packet' to mean Notice of Intent, occupational ballot designation, and statement of qualifications.	Employee Member Only	Standardizes language amongst both election processes.

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17	<u>Nomination of Candidates:</u> Public Drawing to Determine Candidate Order on Ballot	In 'Elections: General', a public drawing will take place to determine order of candidates on the ballot on the 2nd business day following the last day for filing nominating petitions. (Section 23.103.1)	In 'Nomination of Candidates': Prior to the election, the City Clerk shall conduct a public drawing to determine order of candidates on the ballot. Article 5.5 does not specify when this drawing will take place. (Section 23.103.15)	Update language in Article 5.5 retired member election to delineate that the public drawing will take place on the 2nd business day following the last day for submitting candidate packets. Also, for Article 5 employee elections, move language about the public drawing into the newly named 'Nomination of Candidates and Preparation of Official Ballot Statement' Section.	Both	Documents current procedures and standardizes language and formatting amongst the employee and retired election processes.
18	<u>Nomination of Candidates</u> Write-in Candidates	Language related to a blank space being available beneath qualified candidates to include a write-in candidate on the ballot is currently located in Section Elections: General. (Section 23.103.1(d))	Language related to a blank space being available beneath qualified candidates to include a write-in candidate on the ballot is currently located in Section Nomination of Candidates. (Section 23.103.15)	Move employee member write-in candidate language from Section Elections: General to section Nomination of Candidates.	Employee Member Only	Standardizes location of write-in candidate process amongst both election processes and helps ensure that consistent procedures would be followed.

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19	<u>Observers</u> Election Ballot Count	During the ballot count for the election, candidates may designate not more than two observers at the City Clerk ballot tally center to observe that ballots are properly cast and votes are properly counted. (Section 23.103.3.)	During the ballot count for the election, candidates may designate not more than two observers at the City Clerk ballot tally center to observe that ballots are properly cast and votes are properly counted. (Section 23.103.17.)	Revise Articles 5 and 5.5 to allow for the candidate to request to be an observer, in addition to the two observers, for a maximum total of three observers per candidate.	Both	Provides the option to candidates to have one additional observer besides themselves. This change mirrors the LACERS Board LAAC election processes.
20	<u>Counting</u> <u>Ballots/Ballot</u> <u>Tally:</u> Section Title Change to 'Counting Ballots'	Title of Section is 'Counting Ballots'. (Section 23.103.6)	Title of Section is 'Ballot Tally'. (Section 23.103.20)	Change the Section title for Article 5.5 retired member elections from 'Ballot Tally' to 'Counting Ballots'.	Retired Member Only	Standardizes Section title amongst the employee and retired election processes.
21	<u>Challenges:</u> Various Sections	The 'Voting Procedure' Section explains how the City Clerk may challenge a returned ballot and the 'Challenges' Section explains how an Observer may make a challenge. (Sections 23.103.4 and 23.103.5)	The 'Verification of Identification Envelopes' Section explains how the City Clerk may challenge a returned ballot and the 'Ballot Tally' Section explains how an Observer may make a challenge. Also, the grounds by which the City Clerk may challenge a returned ballot is more detailed than in the employee member LAAC. (Sections 23.103.19 and 23.103.20)	Revise Section Title in Articles 5 and 5.5 to 'Verification of Identification Envelopes and Challenges' to include information about how the City Clerk verifies envelopes and how either the City Clerk or an Observer may challenge a returned ballot.	Both	Standardizes language and format for consistency and clarify and more specifically describes what can be challenged.

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22	<u>Election Results:</u> Tie Votes	The 'Results of the Election' Section explains that the candidate who receives a majority vote (50% plus one) wins the regular election. This Section also explains what to do in case where there is not a majority winner and there's some sort of tie in the regular election or the runoff election. (Section 23.103.8)	The 'Certification and Report of Results Section' explains that the candidate who receives a majority vote (50% plus one) wins the regular election but it does NOT explain what to do in cases where there is no majority winner <u>and</u> there's some sort of tie in either the regular or runoff election. (Section 23.103.21)	Recommend adding language to Article 5.5 retired member elections to address ties using the same language in the employee member election LAAC.	Retired Member Only	Standardizes language amongst both election processes and helps ensure that consistent procedures would be followed in case of a tie.
23	<u>Runoff Election:</u> Election Timeline	A runoff election must occur no less than 30 and no more than 45 calendar days after the regular election. (Section 23.103.8.)	A runoff election must take place within 30 days after the regular election. (Section 23.103.21)	Amend Article 5.5 retired member runoff election timeline (no less than 30 and no more than 45 calendar days) to Retired Member Elections.	Retired Member Only	Standardizes language amongst both election processes and documents current procedures.
24	<u>Unexpired Term:</u> Section Title Change to 'Special Election'	Title of this Section is 'Unexpired Term'. (Section 23.103.9)	Title of this Section is 'Unexpired Term'. (Section 23.103.22)	Change the Section title from 'Unexpired Term' to 'Special Election' because a recall election is also a type of Special Election and may not result in voting on an unexpired term if recall is not successful.	Both	Standardizes language and expands upon title amongst both election processes.

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25	<u>Special Election</u> (Formerly 'Unexpired Term'): Change the Election Day Language	The Board shall immediately order a special election to be held upon a date to be designated by said Board, which day shall be any Tuesday not less than sixty (60) and not more than ninety (90) days after the officeholder has submitted a letter of resignation or the office has become vacant. (Section 23.103.9)	The Board shall designate the date of the election. The day shall be any Tuesday not less than sixty (60) and not more than ninety (90) days after the officeholder has submitted a letter of resignation or the office has become vacant. (Section 23.103.22)	Change the language in both Articles 5.0 and 5.5 to "The Board shall designate the date of election. The election shall be held no less than 60 calendar days and no more than 90 calendar days..." The "Tuesday" reference was removed from both employee and retired Sections.	Both	Standardizes language and allows for greater flexibility to administer a special election on any business day that falls within the 60 to 90 calendar day time frame as stated in the Section.
26	<u>Special Election</u> (Formerly 'Unexpired Term'): Results	Plurality (highest votes), not Majority Winner (50% plus one) - If a special election is held to fill an unexpired term, he/she who receives a plurality of votes wins. (Section 23.103.9.).	Majority (50% plus 1), not Plurality Winner (highest votes) - If a special election is held, candidates shall be nominated and elected in the same manner as the regular elections (Majority winner). If there is no majority winner, then a runoff election would be required for an unexpired term. (Section 23.103.21)	Change language in Article 5.5 to allow for a Plurality Winner in a Special Election.	Retired Member Only	Standardizes language amongst both election processes. Also potentially reduces the number of elections required for an unexpired term or recall special election where the recall vote is successful.

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27	<u>Declaration of the Results:</u> New Section	There is no 'Declaration of the Results' Section in Article 5 employee member elections, although there is a reference to the Board declaring the winner of an election in the 'Results of the Election' Section. (Section 23.103.8)	There is no 'Declaration of the Results' Section in Article 5.5 retired member elections. Nor any reference to the Board declaring the winner of an election, other than in a recall election, when the Board declares the result of the recall election.	Add 'Declaration of the Results' Section in both Articles 5 and 5.5 to document that the Board declares the winner of the election.	Both	Documents current processes and highlights the Board's role in this process.
28	<u>Recall Procedure:</u> Circumstances under which a Recall is Prohibited	No petition for removal of an elected employee member shall be filed until he/she has held his/her office for six months. (Section 23.103.10)	No petition for removal of an elected retired member shall be filed until he/she has held his/her office for six months. (Section 23.103.23)	Revise circumstances under which recall procedures would be prohibited to the following: 1) elected Board member has held his/her term of office for less than 3 months; 2) elected Board member's current term of office expires within six months; or 3) a recall election for same elected Board member has occurred within six months after previous recall election.	Both	Aligns with current Election Code prohibitions and Charter provisions for City elected officials.

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29	<u>Recall Procedure:</u> Recall Election	One special election for a recall: a concurrent recall and successor election would take place, if the majority of voters approve the recall. (Section 23.103.10)	Two separate special election processes for a recall: one recall election takes place and if the recall is successful, then a separate second election at a later date takes place to determine successor. (Section 23.103.23)	Article 5.5 retired member elections would be revised to require a concurrent recall and successor election process.	Retired Member Only	Standardizes language and process amongst both election and potentially reduces the number of elections if a recall is successful.
30	<u>Recall Procedure:</u> Recall Election Results	Plurality winner - If the recall is successful and a successor is voted on, the candidate with the highest number of votes wins (Plurality). (Section 23.103.10)	Majority winner - If the recall is successful and a successor is voted on, the winner must have a majority (50% plus one) of the total votes. If no majority, then a runoff election is held between the candidates with the two highest votes. (Section 23.103.23)	Article 5.5 retired member elections would be revised to a plurality winner if recall is successful and a successor is voted on.	Retired Member Only	Standardizes language and process amongst both elections and potentially reduces the number of elections required if a recall is successful.
31	<u>Recall Procedure:</u> Recall Petition Percentage needed	A recall petition must be signed by 20% of the sworn personnel of the Department from which the incumbent was elected. (Section 23.103.10)	A recall petition must be signed by 10% of the number of current retired eligible voters of the Department from which the incumbent was elected. (Section 23.103.23)	Article 5.5 retired member elections would be revised to require 20% of the number of current retired eligible voters to sign the recall petition.	Retired Member Only	Standardizes the recall process for both election processes.

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Attachment I

Item No.	Description	Article 5 Employee Members of Board Current Administrative Code Section 23.102 - 23.103.11*	Article 5.5 Retired Elected Members of the Board Current Administrative Code Section 23.103.12 - 23.103.25*	Staff Recommended Change	Which Election Does Change Impact?	Reason for Recommended Change
32	<u>Recall Procedure:</u> Statements filed by Incumbent and/or Recall Petitioner for Purposes of Inclusion on the Ballot	Subsequent to recall supporters submitting a 300-word statement of reasons and incumbent supporters submitting a 300-word answer to the statement as part of the recall petition process, recall and incumbent supporters may also file a separate 750-word statement in support of their position(s). Both 750-word statements shall be enclosed in the ballot as long as the City Clerk has been furnished with copies of such statements equal to 5% in excess of total qualified voters. (Section 23.103.10)	Subsequent to recall supporters submitting a 300-word statement of reasons (General Statement) and incumbent supporters submitting a 300-word answer to the statement as part of the recall petition process, recall and incumbent supporters may also file a separate 750-word statement in support of their position(s). Both 750-word statements shall be enclosed in the ballot as long as the City Clerk has been furnished with copies of such statement equal to 5% in excess of total qualified voters. (Section 23.103.23)	Standardize terms in this Section and eliminate provision for a 750-word statement altogether. The original Statement of Reasons (in support of recall) and Answer to the Statement (in support of incumbent) would be included in ballot, if provided.	Both	Simplifies current procedures so that supporters don't have to prepare two separate documents and eliminates provision for supporters to make copies in excess of 5%.
33	<u>Protests:</u> Add Section	There is no 'Protests' Section in the current employee member elections LAAC.	There is a 'Protests' Section in the current retired member elections LAAC for any interested person to challenge the election. (Section 23.103.25)	Add 'Protests' Section in Article 5 employee member election to mirror Article 5.5 retired elected member election.	Employee Member Only	Standardizes language amongst both election processes and documents current procedures.

* Current Los Angeles Administrative Code (LAAC) is listed for reference.
Items in **bold** reflect the major changes referenced in the Council Letter request.

LAFPP

ARTICLE 5 ELECTED EMPLOYEE MEMBERS OF THE BOARD

Section

- [23.102](#) Definitions.
- [23.102.1](#) Term of Office.
- [23.102.2](#) Elections: General.
- [23.102.3](#) Nomination of Candidates and Preparation of the Official Ballot.
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Section. 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 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 pm 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 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 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 he/she was so 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 challenge has 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 shall be notified of the fact of their election, 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 and no 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 list 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 or persons 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 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 proof of service to the City Clerk within five business days of serving the employee member of the Board.

(c) Within fourteen 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) 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 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 of Reasons prepared by the recall proponents and the Answer to the Statement 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.

**ARTICLE 5.5
ELECTED RETIRED MEMBERS OF THE BOARD**

Section

- [23.103](#) Definitions.
- [23.103.1](#) Term of Office.
- [23.103.2](#) Elections: General.
- [23.103.3](#) Nomination of Candidates and Preparation of the Official Ballot.
- [23.103.4](#) Notice of Election.
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- [23.103.15](#) Protests.

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. The first elections for the Fire and Police Pension Board retired elected members were held in May of 2000.

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.

(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 statement 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 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 will 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 cause 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, based on the supplemental list provided to the City Clerk by the General Manager, was reinstated as an employee member, has died or otherwise lost status as an eligible voter within 30 calendar days prior to the election; 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 he/she was so 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 challenge has 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 shall be notified of the fact of their election, such notice to be given no less than five days prior to the beginning of the term for which he/she was elected.

(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 and no 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 list of all eligible retired members as 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 or persons 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 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

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

(c) Within fourteen 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) 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 23.103.10.

(h) The recall election shall be held no less than 60 calendar days nor more than 90 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 to Run. 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 of Reasons prepared by the recall proponents and the Answer to the Statement 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, not inconsistent 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.

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ARTICLE 5
ELECTED EMPLOYEE MEMBERS OF THE BOARD

Section

23.102—Term of Office.

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23.103—Nomination of Candidates.

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23.103.9 — ~~Unexpired Term.~~

23.103.10 — ~~Recall Procedure.~~

23.103.11 — ~~Rules and Regulations.~~

Section. 23.102. ~~Sec. 23.102.~~ Term of Office.

~~—The terms of the two employee members of the Board of Pension Commissioners shall be five years beginning with the first day of July of the respective years, provided, however, that the initial terms of the employee members first elected shall be staggered; the term of one employee member shall end on the last day of June following three full years; and the term of the other employee member shall end on the last day of June following five full years after election. The terms of the first elected employee members shall be determined by lot at the first meeting of the Board at which both said employee members are present.~~

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

~~Sec. 23.102.1.~~ 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)~~ 1202(e), and includes participants in the Deferred Retirement Option Plan (DROP).

~~—(b)—(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).

~~—(c)—~~ **“Sec. Board”** shall mean the Board of Fire and Police Pension Commissioners.

SECTION HISTORY

~~Added by Ord. No. 142,280, Eff. 1-27-72.~~

~~Amended by: Subsec. (a), Ord. No. 158,965, Eff. 6-~~ **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.

All elections shall be by secret ballot and shall be conducted by the City Clerk. 30-84; Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.

(a) 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. ~~Sec. 23.103.~~ Nomination of Candidates and Preparation of the Official Ballot.

~~—Only those persons who have been nominated as hereinafter provided shall be eligible for a place upon any election ballot. Nominating petitions shall be furnished by the City Clerk. The nominating petitions for the employee member who is a member of the Fire Department shall be substantially the following form:~~

~~[NOMINATING PETITION FOR
FIRE DEPARTMENT CANDIDATE FOR
BOARD OF FIRE AND POLICE
PENSION COMMISSIONERS]~~

~~—We, the undersigned hereby certify, each for herself and not for the other, that we are members of the Fire Department and collectively we hereby nominate _____, also a member of the Fire Department for office of employee member of the Board of Fire and Police Pension Commissioners for the term beginning _____, and ending _____.~~

~~—The nominating petitions for the employee member who is a member of the Police Department shall be in substantially the following form:~~

~~[NOMINATING PETITION FOR
POLICE DEPARTMENT CANDIDATE FOR
BOARD OF FIRE AND POLICE
PENSION COMMISSIONERS]~~

~~—We the undersigned hereby certify, each for himself and not one for the other, that we are members of the Police Department, and collectively we hereby nominate _____, also a member of the Police Department for the office of employee member of the Board of Fire and Police Pension Commissioners for the term beginning _____ and ending _____.~~

~~—Beneath the foregoing, and in columnar form, space shall be provided for the signature of each nominator, and the date on which such petition is signed by him. Each person signing any such petition shall write in his name and the date of signing. No person shall sign more than one petition. Space shall be provided on each such petition for 100 signatures and not more than two such petitions shall be available for each candidate at the office of the City Clerk on the first Tuesday in March of any year in which the term of office of an employee member of the Board expires.~~

~~—In order to qualify for a place upon the election ballot, such petition or petitions shall be signed by not less than 100 members and shall be filed in the office of the City Clerk within two weeks after such petitions are made available as hereinbefore provided.~~

~~—The City Clerk shall verify that those persons signing the petitions were members as of the date of signing, and shall certify the sufficiency or insufficiency of each petition, and shall so notify the nominated members by registered mail.~~

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

~~Amended by: Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.~~

- (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 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 pm 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. **~~Sec. 23.103.1. Elections: General.~~**

~~— (a) All elections shall be by secret ballot and shall be conducted by the City Clerk. There shall be a separate ballot box for each vacancy on blank space beneath the Board.~~

~~— (b) The date of the election shall be the last Tuesday in April of any year final name in which the term of office of an employee member of the Board expires.~~

~~— (c) Eligible voters shall be only those who are members of the Department of which the candidate is also a member. The Controller, at the request of the City Clerk, shall provide to the City Clerk, an alphabetical roster, by Department, of persons eligible to vote as of 30 days prior to the election, together with such persons names, addresses, and social security numbers and the General Manager of the Personnel Department shall certify on said roster as to the fact of their employment. The roster provided to the City Clerk by the Controller may be supplemented with the names, addresses and social security numbers of eligible voters provided from the Police and Fire Departments personnel and payroll records. The names, addresses and social security numbers of additional eligible votes, however identified, shall be provided to the City Clerk for inclusion on the City Clerk mailing list. The Controller shall also provide the City Clerk with mailing labels for all such eligible persons. The General Manager of the Pension Department shall furnish the City Clerk on the date of the election with a list of the names of~~

~~those members who have retired, resigned or otherwise lost their status as a member within 30 days of the election, together with their social security numbers.~~

~~—(d)— Every ballot shall contain the name of each candidate who has qualified in accordance with Section 23.103. Such names shall be arranged in randomized alphabetical order of the surname, and beneath these names a blank space shall be provided wherein the voter may write the name of any member of his Departmentthe applicable department not printed on the ballot and for whom he maythey wish to vote.~~

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~~—(e)— Prior to each regularly scheduled and special election(i) On the second business day following the due date for candidate packets, the City Clerk shall conduct public a public drawing of the letters of the alphabet. The order inby which the letters are drawn shall constitute the random alphabetical order by which the namesurnames of the qualified candidates shall be arranged by surname on the ballot. For the purposespurpose of this subsectionordering candidates by surname, the term “surname” shall mean the name borne in common by members of a family.~~

Sec. ~~The drawing shall take place in the Office of the City Clerk, 23.102.4. Notice of Election Division, on the second business day following the last day for filing nominating petitions.~~

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SECTION HISTORY

Added by Ord. No. 142,820, Eff. 1-27-72.

Amended by: Subsec (d), Ord. No. 149,348, Eff. 4-6-77; Subsec. (e), added by Ord. No. 149,348, Eff. 4-6-67; Subsec. (c), Ord. No. 170,443, Eff. 5-5-95.

~~Sec. 23.103.2. Notice of Election.~~

—(a)— ~~Not more than ninety (90) nor lessfewer than sixty (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 ~~such~~the election.

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—(b)— ~~Not more than thirty (30) nor lessfewer than twenty (20) calendar~~ days prior to the regular election, the Board ~~will causes~~shall have caused to be prepared a Notice of Election specifying the election date ~~thereof~~, a sample ballot containing the name of each ~~candidate who has qualified for a place on the election ballot in accordance with Section 23.103~~candidate, rules concerning eligibility to vote, and ~~such~~any additional information and instructions as the City Clerk may determine. A copy of the ~~notice~~Notice of Election and sample ballot shall be posted ~~in~~at the ~~office~~Office of the City Clerk.

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

~~Sec. 23.103.3. 102.5. Observers.~~Formatted
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—~~Candidates~~Qualified candidates whose names appear on ~~all~~the election ballot may each designate ~~not~~no more than two (2) observers at the ~~tally center~~ to observe that ballots are properly cast and votes are properly counted. ~~Names of~~ 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 ~~not~~no less than three (3) calendar days prior to the election.

—~~Observers so designated~~ Designated observers and candidates present for the ballot count shall wear identification badges at all times and shall be subject to ~~such~~all applicable regulations ~~as established by the City Clerk shall~~ prescribe.

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SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

Sec. 23.403.4. 102.6. Voting Procedure.

—(a)— The City Clerk shall mail a ballot packet for the election to each eligible member on the mailing list as voter listed on the primary roster supplied by the Controller, a ballot for the election. Such General Manager. The mailing shall be completed notno less than ten (10) calendar days prior to the date of election.

—(b)— Those persons who become eligible employee members of the Police or Fire Department within thirty30 days prior to an election, who wish to vote in the election of an employee- member for their respective departments, shall present themselves inat the officeOffice of the City Clerk notno earlier than seven business days prior to, and notno later than 5:00 p.m. ofon the day of the election, with a certificate from the Personnel Department, on a form approved by the City Clerk, verifying the fact of their employment. The City Clerk shall thereupon provideallow such members with those items described in (c) 2, 3 and 4 of this section, and the member shallto vote his ballot, insert it in the ballot envelope, insert the ballot envelope in a completed identification envelope, and deposit it with the City Clerk.

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

—(1.—) A mailing envelope;

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—(2.—) A return envelope;

—(3.—) The official ballot;

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

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—(5.—) A list of voter instructions to voter; and,

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—(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 then affix his or herthe voter's name, address, last four digits of the voter's social security number, signature, and

date of signing ~~upon the identification envelope in the space provided therefor~~ and shall place 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 ~~by personal deposit as herein provided.~~ Voters may, during in person. During regular hours in the seven business days preceding the election, but no later than 5:00 p.m. ~~on election day, on Election Day, voters may personally deposit their ballot in the election box in the Office of the City Clerk, Election Division.~~ All ballots shall, in order to be counted, be ~~in the hands of~~ 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".

~~—(e) Upon receipt of the identification envelope and its contents the City Clerk shall verify the name and social security number appearing thereon with~~ (f) If a voter on the roster of eligible voters and shall cause the roster claims to be marked showing that the member has voted.

~~—(f) No identification envelope shall be opened prior to the commencement of the tally.~~

~~—(g) The City Clerk may challenge a returned ballot upon the following grounds:~~

~~—(1) That the identification envelope is not properly or accurately identified by the voter as provided herein;~~

~~—(2) That the ballot was have received after the last date and time provided herein;~~

~~—(3) That a ballot, the voter has retired, resigned, or otherwise lost his status as a member within thirty (30) days prior to the election, as indicated by the General Manager of the Pension Department to the City Clerk.~~

~~—(4) That the voter has already voted a ballot.~~

~~Any ballots so challenged shall be retained by the City Clerk in sealed condition for a period of not less than ninety (30) calendar days following the election.~~

~~(h) If a voter inadvertently spoils a ballot, he may return the spoiled ballot to the City Clerk, who shall furnish the voter with another ballot. Not more than two such additional ballots may be issued to the same voter.~~

~~(i) If a voter claims that he did not may receive a ballot, he may receive another replacement ballot from the City Clerk upon filing a signed affidavit claiming non-receipt. The identification envelope of such ~~duplicate~~ the replacement ballot shall be prominently marked "duplicate ~~ballot~~ "REPLACEMENT BALLOT" and the original ballot issued to the voter shall be challenged by the City Clerk, if received.~~

SECTION HISTORY

Added by Ord. No. 142,820, Eff. 1-27-72.

Amended by: Subsec. (b) (e), Ord. No. 145,158, Eff. 11-25-73;
Subsec (c) and (d), Ord. No. 149,348, Eff. 4-6-77; Subsecs. (a)
and (d), Ord. No. 170,443, Eff. 5-5-95.

Sec. 23.103.5. 102.7. Verification of Identification Envelopes and Challenges.

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~~(a) (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 or the City Clerk, 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:

~~—(b)—The Challenges by observers may be made only upon the following grounds:~~

- ~~(1) —(1)—That the identification envelope was not signed by the person whose name appears on the roster;~~
- ~~—(2)—That the person's~~
- (2) The voter's status as an eligible member has changed since he/she was so certified by the Personnel Department; or
- ~~—(3)—That the~~
- (3) The voter's name does not appear on the roster.
- ~~—(e)—~~

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

~~—(d)—~~

(e) The City Clerk shall, with substantiating evidence, sustain or overrule the challenge. Without such If substantiating evidence being is not produced within three (3) days of the election, the challenge shall be overruled and the ballot shall be tallied counted with the other ballots. Ballots- Identification envelopes whose challenge has been sustained shall not be included in the

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ballot count and shall be retained unopened by the City Clerk; for a minimum of ninety (90) calendar days after the election results are certified.

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

Sec. 23.103.6. 102.8. Counting Ballots.

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—(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 or his aides may handle ballots. All ballots counted and uncounted shall be kept in view of the authorized observers at all times and until the Ballot Statement is finally signed. ~~unofficial results are finalized.~~

—(b)— ~~The identification envelope containing the sealed ballot envelope shall not be opened until the tally is commenced in order to preserve the secrecy of the ballot. At the commencement of the tally, the City Clerk or his aides shall audibly announce the name of each voter and shall then open the identification envelope, removing therefrom the sealed ballot envelope containing the official ballot. After all identification envelopes have been opened and set aside from the tally area, the City Clerk; or his aides shall then proceed to open the ballot envelopes and count and tally the ballots cast for each choice, laying the ballots face up so that observers may inspect the marks. The Count shall continue in this manner until the ballots are exhausted. When all ballots have been counted, the totals shall be entered on the Statement of Votes Cast.~~

—(e)— ~~(b)~~ If a ballot is torn, defaced, marked in an ambiguous fashion, or is otherwise defective, the City Clerk shall determine whether the objective intent of the voter can be reasonably determined and, if so, determine it. If such 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 it shall be preserved for a period of ~~ninety (90)~~ calendar days.

—(d)— ~~(c)~~ After preparing the ~~Statement of Votes Cast~~ official certified results, the City Clerk shall ~~place under seal all~~ will ensure that the ~~ballots, identification envelopes, and the tally sheets, and shall retain the same~~ are secured in a sealed condition ~~location~~ for not less than ninety (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.

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

~~Amended by: Subsec. (b), Ord. No. 145,158, Eff. 11-25-73.~~

Sec. 23.102.9. Sec. 23.103.7. Certification and Report of Results.

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~~—The City Clerk shall within fourteen (14) calendar days after the date of election furnish to the Board the official certified results of the election.~~

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

Sec. 23.103.8. The Results of the Election.

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~~—If any (a) In the regular election, the candidate shall receive who receives a majority (at least 50% plus one) of all votes cast by members of his Department at the election, he shall be declared by the Board to shall be elected to the position of employee member for his Department and the applicable department based on the certified results provided by the City Clerk. The candidate shall be notified of the fact of his their election, such notice to be given not no less than five days prior to the beginning of the ensuing term for which he was elected.~~

(b) ~~In the event that regular election, should no candidate receives receive a majority of all votes cast by members of his Department, the Board City Clerk shall order that cause the names of the two candidates receiving the highest number of votes by members of their Department cast be placed upon the on a ballot to be voted on subject to all rules, regulations and procedures governing the initial election 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 and no 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 list 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 ~~at~~in the ~~first~~regular election ~~received~~receive an equal number of votes cast ~~by members of his Department,~~ and ~~such~~the number of votes cast is sufficient to entitle each of them to appear upon the ballot ~~at~~of the ~~final~~runoff election, as herein provided, or in the event that both candidates ~~at~~in the ~~final~~runoff election ~~should~~ 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 so designated by him~~the~~ City Clerk and then thereafter draw lots to determine: as to the first election, which person or persons shall have a place upon the final ballot; and as to the final election, which person or persons shall be declared elected. Such lots shall be drawn in such manner as the ~~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 either or both any candidates involved do not appear, then at the drawing of the lot, the City Clerk shall act for ~~such~~the absent person or persons in the drawing of the ~~lot~~lots.
- ~~In the event that~~(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 ~~nominating~~initial election ~~shall~~ for any reason cease to be a member of the Department by which he was employed at the time of his nomination, between the time of the declaration of the results of such nominating election and department prior to the printing of the ballots for the ~~final~~runoff election, then the name or names of the candidate or candidates receiving the next highest number of votes cast shall be printed upon the ~~final~~runoff election ballot.

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~~—A(5) In a runoff election shall be conducted not less than thirty (30) nor more than forty five (45) calendar days after, in the datecase of a tie, the initial election.~~

SECTION HISTORY

~~Added~~ City Clerk shall determine which person shall be declared elected from the tied candidates by Ord. No. 142,820, Eff. 1-27-72 using the lot-drawing procedure.

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Sec. 23.102.10. Special Election.

~~Sec. 23.103.9. Unexpired Term.~~

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(a) — In the event that, for any reason, an employee member of the Board, from either Department, has submitted a letter of resignation or his or her the office becomes vacant by virtue of death, disability or retirement, termination, then of employment, or for any other reason, the City Clerk shall conduct a special election to fill such the unexpired term shall be held as hereinafter provided. The Board shall immediately order a. However, no special election to shall be held upon when a regular election is scheduled to take place within six months or less from the date to be designated by said of when the special election is held.

(b) The Board, which day shall designate the date of the election. The election shall be any Tuesday not less than sixty (60) and held not more than ninety (90) nor fewer than 60 calendar days after the officeholder has submitted a submission of the letter of resignation or the receipt of notification has been received of the death, disability or termination of the member of the vacancy. Candidates to be voted on at any such special election shall be nominated in the same manner provided in Section 23.103. The nominating petitions this article, but the Notice of Intent shall, however, make appropriate reference to the fact that the office for which such nomination is made clearly advise employee members that the election is for the balance of the unexpired term. Such nominating petitions shall be available at and specify the Office of the City Clerk seven (7) weeks before the ending date fixed for the of that term. The special election. No election shall be held where to fill the unexpired term of office is six (6) months or less shall be conducted in the same manner as a regular election, except as otherwise provided in this section.

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(c) —If any candidate in a special election ~~shall receive~~ receives a plurality of all votes cast by members of his or her Department in such special election, ~~he or she~~, 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 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 proof of service to the City Clerk within five business days of serving the employee member of the Board.

(c) Within fourteen 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) 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 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.

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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.

ARTICLE 5.5
ELECTED RETIRED MEMBERS OF THE BOARD

Section

23.103 Definitions.

23.103.1 Term of Office.

23.103.2 Elections: General.

23.103.3 Nomination of Candidates and Preparation of the Official Ballot.

23.103.4 Notice of Election.

23.103.5 Observers.

23.103.6 Voting Procedure.

23.103.7 Verification of Identification Envelopes and Challenges.

23.103.8 Counting Ballots.

23.103.9 The Results of the Election.

23.103.10 Special Election.

23.103.11 Certification and Report of Results.

23.103.12 Declaration of Results.

23.103.13 Recall Procedure.

23.103.14 Rules and Regulations.

23.103.15 Protests.

Section. 23.103. Definitions.

~~his or her~~ 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.

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(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. The first elections for the Fire and Police Pension Board retired elected members were held in May of 2000.

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.

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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.

(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 statement 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 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 will 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

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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 cause 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, based on the supplemental list provided to the City Clerk by the General Manager, was reinstated as an employee member, has died or otherwise lost status as an eligible voter within 30 calendar days prior to the election; 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 he/she was so 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 challenge has 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.

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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.

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Sec. 23.103. ~~for such unexpired term and~~ 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 shall be notified of the fact of his or her their election, such notice to be given not no less than five days prior to the beginning of the term for which he or she was elected.

~~—~~(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 and no 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 list of all eligible retired members as 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, and no candidate receives more 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 then thereafter draw lots to determine which person shall the top two to be declared elected. Such lot shall be drawn in such manner as the in the runoff election. The City Clerk shall determine, the manner in which the lots shall be drawn and in the event that either or both the any

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candidates involved do not appear, ~~then~~ at the drawing of the lot,
the City Clerk shall act for ~~such~~ the absent person or persons in
the drawing of the ~~lot~~ lots.

~~The~~ (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 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.

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Sec. 23.103.11. Certification and Report of Results.

~~election shall be held and the results ascertained as hereinabove provided.~~

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

~~Amended by: Ord. No. 149,348, Eff. 4-6-77.~~

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. 23103.12. 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. ~~Sec. 23.103.10.~~ Recall Procedure.

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~~—An employee(a)~~ A retired member of the Board of Pension Commissioners may be removed from office, and the procedure to effect the removal of an incumbent from office shall be known as the Recall. ~~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

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six months; or 3) there has been a previous recall election for the same person within six months.

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~~—A(b) Proponents of the recall petition must be signed by twenty percent of the sworn personnel~~current retired members of the Department from which the incumbent was elected. Such petition shall be addressed to the Board of Pension Commissioners and filed with the City Clerk and shall request submission to members of his or her Department the question of whether the incumbent shall be removed from office by a vote of such members, and if so removed, a concurrent election of a successor of such incumbent shall be held. Such petition shall contain a general statement of the grounds for which such removal is sought, of not more than three hundred~~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, and the~~The sufficiency of such statement~~Statement shall not be subject to review; provided, however, that no petition for removal of an elected member shall be so filed until he or she has actually held his or her office for six months.~~

~~—Except as otherwise herein provided, the City Clerk shall specify the form . The Notice and mode of signing, filing, examining, certifying, supplementing~~Statement shall be submitted to the City Clerk and presenting these petitions to the Board. The sponsors of a petition shall be fully responsible for such petitions being completed in every detail and in proper form when filed with the City Clerk. No amendments, changes, alterations or corrections of any kind, clerical or otherwise, shall be permitted to be made in any petition subsequent to it being filed with the City Clerk.

~~—Before submitting the petition for signatures, its proponents shall write a notice of intention to do so. The notice shall be accompanied by a typed statement, not exceeding three hundred words in length, of the reasons for the proposed recall. The notice and statement shall be~~shall be posted in the Office of~~at the City Clerk.~~

~~—A copy of~~On the same day that they are submitted to the notice of intention~~City Clerk, this Notice and Statement shall be served upon, or sent by registered~~certified mail, to the employee~~retired member of the Board sought~~who is the subject of the proposed recall. The recall proponents shall

submit proof of service to be recalled the City Clerk within five business days of serving the retired member of the Board.

—(c) Within fourteen calendar days after the posting of notice the Notice and statementStatement, the employeeemployee retired member sought to be recalled, or anyone upon his or hertheir behalf, may prepare an answera typed Answer to the statement. The answer to the statementStatement (Answer). This Answer shall not exceed three hundred300 words in length, and shall be posted inwith the Office ofNotice and Statement at the City Clerk. The statement and answer areAnswer 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 takenrequired under this section.

—Twenty one (21) days after the posting of the notice In addition to the Notice and statement in the Office of the City Clerk, the Statement, a recall petition demanding the recall of the employee member may be circulated among the qualified voters for the securing of signatures. The petition shall bear a copy of the posted notice of intention and accompanying statement and the answer, if any. If the employee member of the Board or anyone on his or her behalf has not answered, the petition shall so state. Signatures shall be secured and the petition filed with the City Clerk within six weeksmust be signed by 20% of the retired members of the department from the first day of circulation. The City Clerk shall verify the sufficiency of the petition.

—Upon the presentation of such recall petition to the Board by the City Clerk, the Board shall thereupon order the holding of a special election for the purpose of submitting to the electors, the question whether such employee member shall be recalled, and if recalled, for the concurrent holding of an election of his or her successor.

—Such special election shall be held not less than sixty (60) days nor more than ninety (90) days after the date of certification by the City Clerk of the sufficiency of such recall petition to the Board of Pension Commissioners.

—Any which the incumbent whose removal is sought under the provisions of this section, may file with the City Clerk, at least thirty (30) days prior to such recall election, copies of a typed statement of not more than seven hundred and fifty words in length, justifying his or her course in office; and the person filing such recall petition, or the person or organization on whose behalf a recall petition was filed, shall have the right to present to the City

~~Clerk, within the same limit of time, copies of a typed statement in support of such recall of not exceeding seven hundred and fifty words in length. Any statement filed under this section shall be printed in such form and upon such character of paper suitable for mailing as the City Clerk shall prescribe.~~

~~—The City Clerk shall enclose one copy of any such statement so filed with the City Clerk with the ballot mailed to each voter, provided the City Clerk has been furnished with copies of such typed statement equal to five percent (5%) in excess of the total number of qualified voters.~~

~~—Any candidate to be voted for at a recall election, other than the incumbent sought to be removed, may be nominated by petition, which petition shall conform to the provisions of Section 23.103 as therein provided.~~

~~—The ballots used for the purpose of the recall election shall have printed thereon the following question:~~

~~—“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 Pension Commissioners by recall?”~~

~~—And, opposite such question to be voted on, and to the right thereof, the words “Yes” and “No” shall be printed on separate lines, with voting squares. If a voter shall stamp a cross (X) in the voting square after the printed “Yes,” his or her vote shall be counted in favor of the recall of such officer, and if the elector shall stamp a cross (X) in the voting square after the word “No,” his or her vote shall be counted against such recall.~~

~~—On such ballots, under each question, there shall also be printed the names of all persons who have been nominated as candidates to succeed the person whose removal is sought, in case he or she shall be removed from office by majority vote of the voters. The nomination of such candidates shall be made as heretofore provided, but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote “No,” said incumbent shall continue in office. If a majority shall vote “Yes,” said incumbent shall thereupon be deemed removed from such office. If the vote at any such recall election shall recall the employee member, then the candidate who has received the highest~~

~~number of votes for the office shall be thereby declared elected for the remainder of the unexpired term. All votes upon the question of recall and for candidates for said office shall be counted in like manner as in a regular election, and the Board shall declare the result thereof.~~

~~—An elected member of the Board for whose recall and removal from office an election is held, shall continue to perform the duties of his or her office until such time as the Board, after a count of the vote at such recall election, shall declare that a majority of the voters voting on the question as to whether such person shall be recalled and removed from office have voted in favor of his or her recall and removal from office. If such person shall resign at any time after the date of the certification of the City Clerk certifying that the petition for his or her recall is sufficient, or for any cause whatsoever a vacancy of the incumbent's office occurs, the recall election shall be held notwithstanding such resignation or vacancy.~~

SECTION HISTORY

~~Added by Ord. No. 142,820, Eff. 1-27-72.~~

~~Amended by: Ord. No. 149,348, Eff. 4-6-77.~~

~~Sec. 23.103.11. Rules and Regulations.~~

~~—The Board is hereby authorized to adopt such Rules and Regulations, not inconsistent with the provisions of this article as may be necessary to implement the provisions thereof.~~

SECTION HISTORY

~~Added by Ord. No. 149,348, Eff. 4-6-77.~~

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ARTICLE 5.5
RETIRED ELECTED MEMBERS OF THE BOARD

(Title Amended by Ord. No. 176,349, Eff. 12-27-04.)

Section

23.103.12 — Term of Office.

23.103.13 — Definitions.

23.103.14 — Elections: General.

23.103.15 — Nomination of Candidates.

23.103.16 — Notice of Election.

23.103.17 — **Observers.**

23.103.18 — Voting Procedure.

23.103.19 — Verification of Identification Envelopes.

23.103.20 — Ballot Tally.

23.103.21 — Certification and Report of Results.

23.103.22 — Unexpired Term.

23.103.23 — Recall Procedure.

23.103.24 — Rules and Regulations.

23.103.25 — **Protests.**

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~~Sec. 23.103.12. Term of Office.~~

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

SECTION HISTORY

Article and Section Added by Ord. No. 173,182, Eff. 4-19-00,
Oper. 7-1-00.

Amended by: Ord. No. 176,349, Eff. 12-27-04.

~~Sec. 23.103.13. Definitions.~~

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~~—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.~~

~~—**"Board"** shall mean the Board of Fire and Police Pension Commissioners.~~

~~—**"Department"** shall mean the Department of Fire and Police Pensions.~~

~~—**"Retired Member of Fire Department"** shall mean a person who meets the definition contained in Charter Section 1202(f).~~

~~—**"Retired Member of Police Department"** shall mean a person who meets the definition contained in Charter Section 1202(f).~~

SECTION HISTORY

Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.

Amended by: Ord. No. 176,349, Eff. 12-27-04.

~~Sec. 23.103.14. Elections: General.~~

~~—The City Clerk shall conduct all elections. The Board shall reimburse the City Clerk for all necessary expenses incurred by the City Clerk in the administration of any election of retired members of the Fire and Police Departments to serve on the Board. The election shall be held by the 4th Tuesday in May of any year in which the term of office of a retired elected member of the Board expires. The first election for the Fire and Police Pension Board retired elected members shall be held by May 23, 2000.~~

~~—Eligible voters shall be only those who are retired members of the Department from which the candidate retired. The General Manager of the Department will provide the City Clerk with a list of all eligible retired members as of 30 days prior to the election. The list shall contain the name, address and other identifying information of each eligible retired member of the Plan, as of the date specified in the Calendar for Election.~~

~~—The City Clerk will mail to all such members notification that candidates are being sought to run for the position of retired member of the Board. A supplemental list of voters who lost membership after the first list was prepared will be provided to the City Clerk as of the date of the election by the General Manager of the Department. Such lists shall be in electronic format specified by the City Clerk. The General Manager of the Department shall certify the lists and formally transmit the same to the City Clerk.~~

SECTION HISTORY

Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.

Amended by: Ord. No. 176,349, Eff. 12-27-04.

~~Sec. 23.103.15. Nomination of Candidates.~~

~~—Retired members interested in becoming a candidate must submit a Notice of Intent to run for office in writing to the City Clerk by the due date contained in the notification in order to have their names placed on the ballot. Along with the submission of the Notice of Intent, interested candidates have the option to include an occupational ballot designation and a typewritten statement of qualifications for office for the provision of information to the electorate. The occupational ballot designation shall be printed 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 to become a candidate. A candidate who is running for the same elective office which that person currently holds shall also have "(Incumbent)" printed on the ballot, immediately after that person's name. The statement of qualifications for office may include information on education, work experience, years of service, date of retirement, and other relevant qualifications and shall not exceed 250 words in length.~~

~~—Interested candidates may submit their candidate packet composed of the Notice of Intent to run for office, the optional occupational ballot designation and the optional statement of qualifications to the City Clerk by United States mail. Alternatively, interested candidates may personally deliver their candidate packet to the City Clerk during regular hours in the seven business days preceding the specified due date. In either case, the candidate packet must be received by the City Clerk no later than 5:00 p.m. of the specified due date. Should any candidate fail to submit an occupational ballot designation or a statement of qualifications by the specified due date, the appropriate sections for the occupational ballot designation and qualification statement will be blank. The Department will provide a disclaimer stating that neither the Department nor the City Clerk has verified the accuracy of the information contained in the candidates' qualification statements. Qualification statements 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.~~

~~—Prior to the election, the City Clerk shall conduct a public drawing of the letters of the alphabet. The order in which the letters are drawn shall constitute the random alphabetical order by which the surnames of the candidates shall be arranged on the ballot. Each ballot shall contain the name of each candidate who has qualified in accordance with this section. There shall be a blank space beneath these names in which the voter may write the name of any retired member of the applicable Department not printed on the ballot and for whom the retired member wishes to vote.~~

SECTION HISTORY

Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.

Amended by: Ord. No. 176,349, Eff. 12-27-04.

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~~Sec. 23.103.16. Notice of Election.~~

~~—Not more than ninety (90) nor less than sixty (60) calendar days prior to the election, the Board shall notify the City Clerk of the fact of such election. Not more than thirty (30) nor less than twenty (20) calendar days prior to the election, the Board will cause to be prepared a Notice of Election specifying the date thereof, a sample ballot containing the name of each candidate who has qualified for a place on the ballot in accordance with Section 23.103.15, rules concerning eligibility to vote, and such additional information and instructions as the City Clerk may determine. A copy of the notice and sample ballot shall be posted in the Office of the City Clerk.~~

SECTION HISTORY

~~Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.~~

~~Amended by: Ord. No. 176,349, Eff. 12-27-04.~~

~~Sec. 23.103.17. Observers.~~

~~—Candidates whose names appear on the ballot may each designate not more than two (2) observers at the tally center to observe that ballots are properly cast and votes are properly counted. Names of observers shall be presented to the City Clerk not less than three (3) calendar days prior to the election. Observers so designated shall wear identification badges at all times and shall be subject to such regulations as the City Clerk shall prescribe.~~

SECTION HISTORY

~~Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.~~

~~Amended by: Ord. No. 176,349, Eff. 12-27-04.~~

~~Sec. 23.103.18. Voting Procedure.~~

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~~— The City Clerk shall have ballots printed and mailed to each eligible member on the mailing list roster provided by the Department. The mailing shall be completed not less than ten (10) calendar days prior to the date of the election. Those members who become eligible through retirement within thirty (30) days prior to an election, who wish to vote in such election, shall present themselves in the office of the City Clerk not earlier than seven business days prior to, and not later than 5:00 p.m. of 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 will allow such members to vote.~~

~~— Each ballot packet mailed or provided to voters described above shall consist of the following items:~~

- ~~— a. A mailing envelope;~~
- ~~— b. A return envelope;~~
- ~~— c. The official ballot;~~
- ~~— d. An identification envelope for the official ballot with space for the member to affix the member's name, address, last 4 digits of the social security number, signature and date of signing;~~
- ~~— e. A list of instructions to the voter; and~~
- ~~— f. The candidate's statement of qualifications, if any.~~

~~— Upon voting the ballot, the voter shall enclose the ballot in the identification envelope. The voter shall affix the voter's name, address, last 4 digits of the voter's social security number, signature and date of signing upon the identification envelope containing the ballot and shall enclose it in the return envelope. The voter shall return the voted ballot to the City Clerk by United States mail or personal deposit. 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.~~

~~— If a voter inadvertently spoils a ballot, the voter may return the spoiled ballot to the City Clerk, who shall furnish the voter with another ballot. Not more than two such additional ballots may be issued to the same voter. Spoiled ballots will be clearly marked "spoiled".~~

~~— If a voter claims the voter did not receive a ballot, the voter may receive another ballot from the City Clerk upon filing a signed affidavit claiming non-receipt. The identification envelope of such duplicate ballot shall be prominently marked "**duplicate ballot**" and the original ballot issued to the voter shall be challenged, if received.~~

SECTION HISTORY

Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.

Amended by: Ord. No. 176,349, Eff. 12-27-04;

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~~Sec. 23.103.19. Verificaiton of Identification Envelopes.~~

~~— Upon receipt of the identification envelope and its contents, the City Clerk shall verify the name, social security number and address appearing thereon with the roster of eligible voters and shall cause the roster to be marked showing that the member has voted. No identification envelope shall be opened prior to the commencement of the tally. The City Clerk may challenge a returned ballot upon the following grounds:~~

- ~~— a. — the identification envelope is not properly completed according to the instructions and does not accurately identify the voter;~~
- ~~— b. — the voter did not include the correct last four digits of the SSN;~~
- ~~— c. — the voter did not properly sign the ballot;~~
- ~~— d. — the voter did not include the correct address;~~
- ~~— e. — the voter's name does not appear on the roster;~~
- ~~— f. — the ballot was received after the last date and time provided herein;~~

~~—g.— the voter, based on the supplemental list, was reinstated as an active member, has died or otherwise lost status as an eligible retired member as indicated by the General Manager of the Department; or~~

~~—h.— the voter has already voted a ballot.~~

~~—Each identification envelope so challenged shall have written on the envelope the word "Challenge", the reason for the challenge, and the signature of the person imposing the challenge. Those challenged envelopes shall not be opened, and the ballots they contain shall not be counted.~~

SECTION HISTORY

~~Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.~~

~~Amended by: Ord. No. 176,349, Eff. 12-27-04.~~

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~~Sec. 23.103.20. Ballot Tally.~~

~~—The City Clerk shall count and challenge ballots in accordance with procedures used by the City Clerk to count ballots for other similar elections. An authorized observer or the City Clerk, 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:~~

~~—a.— the identification envelope was not signed by the person whose name appears on the roster; or~~

~~—b.— the person's status as an eligible member has changed since the person was so certified.~~

~~—The City Clerk shall, with substantiating evidence, sustain or overrule the challenge. Without such substantiating evidence being produced within three (3) days of the election, the challenge shall be overruled and the ballot shall be tallied with the other ballots. Identification envelopes whose challenge has been sustained shall not be included in the City Clerk's tally and shall be retained by the City Clerk with all other election materials for a minimum of ninety (90) calendar days after the election results are certified.~~

SECTION HISTORY

Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.

Amended by: Ord. No. 176,349, Eff. 12-27-04.

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~~Sec. 23.103.21. Certification and Report of Results.~~

~~—The City Clerk shall, within fourteen (14) calendar days after the date of the election, furnish the Board with the official certified results of the election. The candidate who receives at least 50% plus one of the votes returned to the City Clerk's office shall be elected to the position. In the event that no candidate receives at least 50% plus one of the votes returned, the City Clerk shall conduct a runoff election within thirty (30) days of the date the initial election is certified by the City Clerk. The ballot for the runoff election shall contain the names of the two candidates receiving the highest number of votes in the initial election. The runoff election shall be conducted in the same manner as the primary election. Both candidates' statement of qualifications will be sent with each ballot. The General Manager of the Department will provide the City Clerk with a new certified list of all eligible retired members as of thirty (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.~~

SECTION HISTORY

Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.

Amended by: Ord. No. 176,349, Eff. 12-27-04.

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~~Sec. 23.103.22. Unexpired Term.~~

~~—If for any reason a retired Board member has submitted a letter of resignation or the office becomes vacant by virtue of death, disability or some other reason, the City Clerk shall conduct a special election to fill such unexpired term. However, no election shall be held where the unexpired term of office will be for six (6) months or less from the time the election would be complete. The Board shall designate the date of the election. The day shall be any Tuesday not less than sixty (60) and not more than ninety (90) days after the officeholder has submitted a letter of resignation or notification has been received of the death, disability or other cause for the office to become vacant. Candidates to be voted on at any such special election shall be nominated and elected in the same manner provided above for the regular~~

~~election for retired Board members. The election notification shall make appropriate reference to the fact that the office for which such election is held is for the balance of the unexpired term.~~

SECTION HISTORY

~~Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.~~

~~Amended by: Ord. No. 176,349, Eff. 12-27-04.~~

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~~Sec. 23.103.23. Recall Procedure.~~

~~— A retired member of the Board may be removed from office. The procedure to effect the removal of an incumbent from office shall be known as a Recall and may be accomplished via a recall petition and election. No petition for removal of a retired member shall be so filed until the member has held office for six months.~~

~~(d) — A recall petition must be signed by ten percent of the number of current retired eligible voters 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 retired members of the appropriate Department. Such corresponding department. The petition shall contain a General Statement of also state that, in the grounds for which such removal is sought, of not more than 300 words in length, and event the sufficiency of such statement incumbent is removed by majority vote, a concurrent election of a successor shall not be subject to review held.~~

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~~— Except as otherwise herein provided, the City Clerk shall specify the form and mode of signing, filing, examining, certifying, supplementing and presenting these petitions to the Board. The sponsors of a petition shall be duly responsible for such petitions being completed in every detail and in proper form when filed with the City Clerk. No amendments, changes, alterations or corrections of any kind, clerical or otherwise, shall be permitted to be made in any petition subsequent to it being filed with the City Clerk.~~

~~— Before circulating the petition for signatures, its proponents shall write a notice of intention to do so. The notice shall be accompanied by a typed statement, not exceeding 300 words in length, of the reasons for the proposed recall. The notice and statement shall be submitted to the City Clerk and shall~~

~~be posted in the Office of 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 registered mail to the retired elected member of the Board sought to be recalled by the proponents of the recall. Proof of this notification shall be submitted by the proponents to the Office of the City Clerk within 5 business days of service.~~

~~—Within fourteen (14)~~

~~21 calendar days after the posting of notice and statement, the retired elected member sought to be recalled, or anyone upon the retired member's behalf, may prepare an Answer to the Statement. The Answer to the Statement shall not exceed 300 words in length, and shall be posted in the Office of the City Clerk. The statement and answer are 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 taken under this section.~~

~~(e) —Twenty one (21) days after the posting of the notice and statement in the Office of the the Notice and Statement in the City Clerk, the petition demanding the recall of the retired elected member of the Board may be circulated among the qualifiedeligible voters for the securing of signatures. The petition shall bear a copy of the posted notice of intention and Notice, accompanying statementStatement, and the answerAnswer, if any. one has been submitted. If the retired member of the Board or anyone on that member's behalf has not answeredno Answer has been submitted, the petition shall so state. Signatures Recall proponents shall be securedobtain the necessary number of signatures and file the petition shall be filed with the City Clerk within six weeks from the first day the petition is authorized to be circulated. The City Clerk shall verify and certify the sufficiency of the petition.date the Notice was posted at the City Clerk.~~

~~—Upon the presentation of such recall petition to~~

~~(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~~

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(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 by the City Clerk, the Board shall thereupon order the holding of a special election. The election will ask whether such retired elected member shall be recalled. Such, and if recalled, will also call for the concurrent election of their successor. Unless otherwise specified herein, a special election shall be held not less than sixty (60) days nor more than ninety (90) days after the date of certification by the City Clerk of the sufficiency of the recall petition to the Board.

—Any incumbent whose removal is sought under the conducted pursuant to this section shall conform to the provisions of this section may file with the City Clerk, at least thirty (30) days prior to the recall election, copies of a typed statement of not more than 750 words in length, justifying the incumbent's course in office. The person filing the recall petition, or the person or organization on whose behalf a recall petition was filed, shall have the right to present to the City Clerk, within the same limit of time, copies of a typed statement in support of the recall of not exceeding 750 words in length. The City Clerk shall enclose one copy of any statement so filed with the ballot mailed to each voter, provided the City Clerk has been furnished, by the author, copies of the typed statement equal to five percent (5%) in excess of the total number of qualified voters contained in 23.103.10.

—(h) The ballots used for the purpose of the recall election shall have printed thereon be held no less than 60 calendar days nor more than 90 calendar days after the City Clerk has presented the Certification to the following question: Board.

—Shall (insert(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 to Run. 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 of Reasons prepared by the recall proponents and the Answer to the Statement 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 Board

member sought to be removed) be removed by recall) 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".

~~—An elected retired member of the Board for whom the recall and removal from office is sought~~(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. In the event that a recall election is successful, the provisions of Section 23.103.22, Unexpired Terms, shall apply. Following the Board's declaration, the incumbent shall be removed from office and the successor candidate shall be installed in the incumbent's place.

SECTION HISTORY

~~Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.~~

~~Amended by: Ord. No. 176,349, Eff. 12-27-04.~~

Sec. 23.103.24-14. Rules and Regulations.

—The Board is hereby authorized to adopt such rules and regulations, not inconsistent with the provisions of this Article, as may be necessary to implement the provisions thereof.

SECTION HISTORY

~~Added by Ord. No. 173,182, Eff. 4-19-00, Oper. 7-1-00.~~

~~Amended by: Ord. No. 176,349, Eff. 12-27-04.~~

Sec. 23.103.25. 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 ~~3~~three business days after the count of the ballots. The City Clerk will review the protests and ~~will~~ submit a report of findings and recommendations to the Board with the official certified ~~tally~~election results within 14 calendar days after the election.

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SECTION HISTORY

~~Added by Ord. No. 176,349, Eff. 12-27-04.~~

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