

ORDINANCE NO. _____

An ordinance adding Section 22.818 to the Los Angeles Administrative Code establishing Regional Grievance Panels for Neighborhood Councils and amending Subdivisions (1) and (2) of Subsection (e) of 22.810.1 of the Los Angeles Administrative Code to establish a consolidated process for resolving grievances arising out of Neighborhood Council operations, and granting the Board of Neighborhood Commissioners the authority to vacate board seats rather than decertify a Neighborhood Council.

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

Section 1. A new Section 22.818 is added to Article 3 of Chapter 28 of the Los Angeles Administrative Code to read as follows:

Sec. 22.818. Neighborhood Council Grievances.

(a) **Regional Grievance Panels.** Seven Regional Grievance Panels are hereby established to consider grievances involving any of the City's Neighborhood Councils. The City's seven regional planning areas shall be used to determine the boundaries for the seven Regional Grievance Panels, comprised of South Area, Central Area, Harbor Area, West Area, East Area, North Valley Area and South Valley Area. The Department of Neighborhood Empowerment (Department) shall assign each Neighborhood Council to one geographic area that best corresponds to the Neighborhood Council's boundaries.

(b) **Appointments to a Regional Grievance Panel.** Each Neighborhood Council may appoint one board member or stakeholder to serve on a pool of panelists eligible to sit on a Regional Grievance Panel. The term of each panelist shall commence when the Neighborhood Council notifies the Department of the appointment and shall be valid until such time as the Neighborhood Council names a replacement. The Department, in its sole discretion, may reject or remove any panelist appointed by the Neighborhood Council and request the Neighborhood Council to appoint a replacement panelist. The Department may develop mandatory training required before a panelist may serve on the Regional Grievance Panel.

(c) **Grievances.**

(1) **Grievance Defined:** A Grievance consists of any allegation that a Neighborhood Council board, as a body, failed to follow any of the following:

- (A) A bylaw or standing rule of the Neighborhood Council;
- (B) A section of the Los Angeles Administrative Code;

(C) A section of the Plan for the Citywide System of Neighborhood Councils;

(D) An applicable policy of the Board of Neighborhood Commissioners;

(E) A rule or regulation promulgated by the Department; or

(F) Any other City code, executive directive, rule or regulation applicable to Neighborhood Councils.

(2) **Exclusions.** The Grievance process set forth in this section shall not be applicable to any of the following:

(A) An alleged violation of state or federal law;

(B) An allegation of wrongdoing by an individual member of a Neighborhood Council board or committee;

(C) An allegation involving an action or inaction by a Neighborhood Council committee; or

(D) A policy dispute or disagreement regarding the position of a Neighborhood Council board or committee.

(3) **Grievance by Board Member.** A board member may file a Grievance against his or her own board. Any Grievance filed by a board member against his or her own board will bypass consideration by the impacted Neighborhood Council Board, as set forth in Subsection (d)(2). The Department will forward a Grievance filed by a board member against his or her own board directly to the Regional Grievance Panel for disposition, as specified in Subsection (d)(6).

(4) **Grievance Forms.**

(A) The Department shall develop a Grievance Form. The Department only shall process a Grievance filed on the Grievance Form approved by the Department. At a minimum, the Grievance Form will require the Grievant to specify:

(i) The nature of the Neighborhood Council's alleged violation;

(ii) Any specific bylaw, rule, regulation, code, policy or directive that allegedly has been violated;

- (iii) The nature of the remedy sought by the Grievant; and
- (iv) An email address or mailing address to which all notices may be sent.

(B) The Department shall develop a Grievance Response Form. Only the Neighborhood Council identified in the Grievance may file a Grievance Response Form. The Department only shall process a response filed on a Grievance Response Form approved by the Department. At a minimum, the Grievance Response Form shall require the Neighborhood Council to specify:

- (i) The nature of the response to the Grievance;
- (ii) The bylaw, rule, regulation, code, policy or directive that is relevant to and supports the response to the Grievance;
- (iii) The remedy, if any, which the Neighborhood Council suggests; and
- (iv) The email or mailing address of the member of the Neighborhood Council Board authorized to represent the Neighborhood Council in connection with the Grievance.

(C) The Department shall develop a Witness Statement Form. The Department only shall process a witness statement filed on a Witness Statement Form. Each Witness Statement Form will be limited to one page. The Department only will process a Witness Statement Form if the information contained thereon is within the personal knowledge of the witness and relates to the facts and circumstances surrounding the Grievance. Each Witness Statement Form must be signed by the witness under penalty of perjury. A Grievant may file no more than three Witness Statement Forms in connection with any Grievance.

(5) **Time for filing a Grievance.** A Grievance must be filed within 30 days from the date of the event giving rise to the Grievance, except that any Grievance alleging a violation relating to Neighborhood Council funding must be filed within 90 calendar days of the date the expenditure is made.

(6) **Serial Grievances Prohibited.** The Department shall not process more than three Grievance Forms filed by the same person in any calendar year. The Department shall not process more than five Grievance Forms filed by the same person in any three year period. The Department shall not process any Grievance relating to a previously filed Grievance, except that the Department, in its sole discretion, may coordinate and bundle the disposition of multiple Grievances relating to the same facts and circumstances as a single Grievance.

(d) **Grievance Process.**

(1) **Department Receipt of Grievance.** The Department shall review a Grievance within seven calendar days of submission to determine whether the Grievance conforms to Subsections (c)(1) and (c)(2), above. Upon a determination that a Grievance conforms with Subsection (c)(1), above, the Department shall certify the Grievance for disposition and notify the affected Neighborhood Council that the Grievance may proceed through the Grievance process established herein. The certification of a Grievance by the Department shall not be construed as a statement regarding the validity or invalidity of the Grievance.

(2) **Review of Grievance by Neighborhood Council.** After receiving a certified Grievance from the Department, a Neighborhood Council must, at its next regular or special meeting, but not more than 60 calendar days from the communication from the Department, take one of the following actions:

(A) Consider the Grievance in accordance with the grievance process specified in the Neighborhood Council's bylaws and issue a decision to sustain and cure or reject the Grievance in whole or in part; or

(B) Waive consideration of the Grievance and request the Department to forward the Grievance directly to the Regional Grievance Panel for consideration.

(3) **Standing Waiver.** In the alternative, a Neighborhood Council may adopt a bylaw or standing rule which waives consideration of all Grievances.

(4) **Inaction by Neighborhood Council.** If a Neighborhood Council fails to timely consider the Grievance or waives consideration of the Grievance, the Department shall forward the Grievance to the Regional Grievance Panel in accordance with Subsection (d)(5), below.

(5) **Appeal of Neighborhood Council Action.** A Grievant may appeal a decision of the Neighborhood Council issued pursuant to Subsection (d)(2)(A). A Grievant may not appeal a decision by the Neighborhood Council to waive consideration of any or all Grievances. No person other than the Grievant may appeal a decision. The appeal must be filed with the Department within seven calendar days from date of the Neighborhood Council's action on the Grievance.

(6) **Establishment of a Regional Grievance Panel.** The Department shall convene a Regional Grievance Panel under the following circumstances:

(A) The Department receives a timely appeal from a decision of a Neighborhood Council;

(B) A Neighborhood Council fails to timely consider a certified Grievance;

(C) A Neighborhood Council waives consideration of a Grievance; or

(D) A board member files a Grievance against his or her own board.

(7) **Composition of the Regional Grievance Panel.** The Department shall exercise reasonable efforts to assign a Grievance to a Regional Grievance Panel in the region in which the Neighborhood Council is located. The Department randomly shall select three panelists from the Neighborhood Council's region to serve on the Regional Grievance Panel. If sufficient panelists from a Neighborhood Council's region are unavailable for any reason, the Department, in its sole discretion, may appoint one or more panelists from another region, or may convene a Regional Grievance from another area, to consider the Grievance.

(8) **Time Limit for Regional Grievance Panel Hearing.** A Regional Grievance Panel shall hear the Grievance within 21 days after the Department convenes the Regional Grievance Panel. If the Regional Grievance Panel does not reach a determination on the Grievance within 21 days, the Department shall disband the Panel and create another Regional Grievance Panel as stated in Subsection (d)(5), above, to hear the matter.

(9) **Notice of a Regional Grievance Panel Hearing.** The Department shall provide notice of the Regional Grievance Panel hearing to the Grievant at the address provided on the Grievance Form. The Department also shall provide notice of the Regional Grievance Panel hearing to the Neighborhood Council representative listed on the Grievance Response Form.

(10) **Conduct of the Regional Grievance Panel Hearing.** The only written evidence considered at the Grievance Panel Hearing will be the Grievance Form, the Grievance Response Form and up to three Witness Statements filed by each side. At the hearing on the Grievance, the Grievant shall have the opportunity to present an opening argument not to exceed ten minutes. The Neighborhood Council designee shall have the opportunity to present an opening argument not to exceed ten minutes. The Grievant shall present a rebuttal not to exceed five minutes. The Neighborhood Council representative shall present a rebuttal not to exceed five minutes. The Regional Grievance Panel may, in its sole discretion, extend the time of the opening arguments and rebuttals. No further witness testimony shall be allowed. After conclusion of the rebuttal by the Neighborhood Council representative, the Regional Grievance Panel may question either of the parties. The Regional Grievance Panel will open the matter for public comment for ten minutes unless,

in the sole discretion of the Regional Grievance Panel, additional time for public comment is necessary to adjudication of the Grievance. The Regional Grievance Panel then shall deliberate the Grievance and prepare a written recommendation to the Department.

(11) **Regional Grievance Panel Determination.** Within seven calendar days after the hearing, the Regional Grievance Panel shall issue to the Department a written determination in writing regarding whether the Grievance is sustained or rejected, in whole or in part. If the Grievance is sustained in whole or in part, the Regional Grievance Panel determination also shall include a recommended remedy. The Department shall post a copy of the Grievance Panel's determination on the Department's website and also shall provide a copy of the determination to the Neighborhood Council and the Grievant.

(12) **Appeals from the Regional Grievance Panel.** Only a Grievant or the Neighborhood Council at issue in the Grievance may appeal a determination of the Regional Grievance Panel. The only basis to appeal a Decision of the Regional Grievance Panel is an allegation of impropriety by the Regional Grievance Panel. No other bases shall give rise to an appeal of a Regional Grievance Panel determination, including, but not limited to, failure or inability to introduce new or additional evidence at either the Neighborhood Council or Regional Grievance Panel or failure or inability to attend the scheduled hearing date. Within seven calendar days, the Department shall make a determination on any appeal. If the appeal is rejected by the Department, neither the Grievant nor the Neighborhood Council may appeal the Department's decision. If the Department determines that the Regional Grievance Panel's determination was improper, the Department shall establish another Regional Grievance Panel to reconsider the Grievance.

(e) **Remedies.** The Department, in its discretion, may impose the remedy or combination of remedies recommended by the Regional Grievance Panel or may impose a remedy or remedies of its own discretion. If the Department imposes a remedy or remedies that are more severe than the recommendation of the Regional Grievance Panel, the Department shall inform the Regional Grievance Panel of the basis for its decision. The remedies that may be recommended by a Regional Grievance Panel or imposed by the Department alone or in combination, are as follows:

- (1) Issuance of an admonishment or warning to the Neighborhood Council board or individual board member or members;
- (2) Issuance of a directive for the Neighborhood Council board to take corrective affirmative action;
- (3) Issuance of a directive requiring the Neighborhood Council Board or an individual board member or members to undergo mandated training;

- (4) Issuance of a directive requiring the Neighborhood Council Board or an individual board member or members to engage in mediation;
- (5) Suspension of board operations until mandated trainings are taken by the board or board member or members;
- (6) Temporary suspension of Neighborhood Council funding;
- (7) Placement of the operations of the Neighborhood Council Board under the control and supervision of the Department;
- (8) Suspension of an individual board member or members;
- (9) Imposition of an election challenge remedy, as authorized by the Department; or
- (10) Initiation of the de-certification process or the process to declare board seats vacant pursuant to Section 22.810.1(e) of this Code.

(f) **Notice of Imposition of Remedy.** The Department shall notify the Grievant and the Neighborhood Council of the remedy or remedies imposed by Department within 14 calendar days from the Regional Grievance Panel's determination.

(g) **Regulations.** The Department is authorized to promulgate any further procedure, rule or regulation necessary for the administration of this Grievance process, including making clarifications or additions to the remedies listed in Subsection (e), above.

Sec. 2. Subdivision (1) and (2) of Subsection (e) of Section 22.810.1 of the Los Angeles Administrative Code are amended in their entirety to read as follows:

(e) **Decertification of a Neighborhood Council/Declaration of a Board Vacancy by the Board of Neighborhood Commissioners.**

(1) **Department Action.** On its own initiative, or after a recommendation by Regional Grievance Panel, the Department may seek the involuntary decertification of a Neighborhood Council or may seek a declaration of vacancy for one or more Neighborhood Council board seats. Immediately upon the issuance of the Department's petition for decertification of a Neighborhood Council Board or declaration of vacancy in one or more board seats, the Department immediately shall freeze and suspend the access to and use of any City funds previously available to the Neighborhood Council or board members named in the petition.

(2) **Opportunity to Cure/Exhaustive Efforts.** Prior to initiating the process to decertify a Neighborhood Council or to vacate one or more Neighborhood Council board seats, the Department first shall provide notice to the Neighborhood Council of the applicable law, rule or regulation upon which the decertification or vacancy declaration will be founded. After giving notice to the Neighborhood Council Board, the Department may give the Neighborhood Council Board an opportunity to come into compliance with the applicable law, rule or regulation. The Department also may exercise “exhaustive efforts” by taking over all powers vested in the Neighborhood Council Board in an effort to bring the Neighborhood Council, Neighborhood Council Board or Board members into compliance with the law, rule or regulation. If, despite the opportunity to cure and/or the Department’s exhaustive efforts, compliance is not achieved, then the Department may initiate the process described in Subdivision (3) below.

(3) **Involuntary Decertification/Vacation of Board Seats.** The Department may petition the Board of Neighborhood Commissioners (Commission) to involuntarily decertify or declare one or more board seats vacant in accordance with Article VI, Section 5 of the Plan.

(A) **Commission Hearing.** To the extent feasible, the Commission hearing on a petition for decertification or vacation of one or more board seats, shall be conducted within the boundaries of the Neighborhood Council at issue.

(B) **Notice.** At least 15 days before the Commission acts on a petition for decertification or vacation of one or more board seats, the Department shall post at least five public notices of the hearing. The notices shall be posted within the boundaries of the proposed Neighborhood Council, stating the time, place and purpose of the hearing, as set forth in Article VI, Section 5(b)(iii) of the Plan. The Department shall provide email notification to the Neighborhood Council Board of the hearing. The public notices shall be translated in accordance with the provisions set forth in Article VI, Section 5(b)(iii) of the Plan.

(C) **Commission Determination Regarding Decertification.** The Commission may decertify a Neighborhood Council based upon evidence that the Neighborhood Council failed to demonstrate the willingness or ability to comply with any rule, regulation or law applicable to Neighborhood Council. If a Neighborhood Council is decertified, the Neighborhood Council no longer shall be a certified Neighborhood Council in the City of Los Angeles. Within 48 hours, a decertified neighborhood council immediately shall vacate any City owned, leased or controlled property and shall surrender to the City all City-owned property, including personal and intellectual property.

(D) **Commission Determination Regarding Vacating One or More Board Seats.** As an alternative to decertifying the Neighborhood Council, the Commission may vacate one or more board seats based on evidence that one or more board member has failed to demonstrate a willingness to comply with any rule, regulation or law applicable to the Neighborhood Council Board or board member.

(E) **Appeals.** If the Commission decertifies a Neighborhood Council or declares one or more board seats vacant, the Neighborhood Council or an individual whose seat was declared vacant may file an appeal pursuant to the provisions of Article VI, Section 5(f) of the Plan. The City Council may by ten votes, sustain, reverse or modify the Commission's decision.

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

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

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By *Darren R. Martinez*
DARREN R. MARTINEZ
Deputy City Attorney

Date 1/6/15

File No. 11-1018 and 13-1689