



City of Whittier

PERSONNEL RULES & REGULATIONS

September 1, 2009

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ARTICLE I. ORGANIZATION AND PROCEDURE

Section 1. "The Personnel Board": The Personnel Board shall be constituted as set forth in Section 708 of the City Charter of the City of Whittier and shall hold meetings in accordance with Section 704 of the City Charter.

Section 2. "Quorum": Three members of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board unless it is concurred in and adopted by the affirmative votes of a majority of the members present. The powers conferred upon the Board shall be exercised by motion or resolution and recorded in the minutes.

Section 3. "Rules of Order": Robert's Rules of Order, except as otherwise provided herein, shall guide the Board in its proceedings.

Section 4. "Meeting Procedures": The regular monthly meeting of the Personnel Board shall be held at the time and place which the Board may determine. The Human Resources Director shall give notice of special meetings to all members of the Board at least two (2) days prior to the meeting. The notice may be delivered personally, by FAX, telephone, telegraph or mail, and shall contain a statement of the purpose of the meeting. The Board shall maintain official minutes of their actions. The Human Resources Director shall arrange for the taking and preparation of the Board's minutes.

All substantive requests, recommendations and actions of or to the Board shall be in writing and shall be made part of the record.

Each Board member shall recognize that it is the policy of the Board to act as an official body and shall not individually or in combination encourage the violation or by-passing of any step or stage in the official lines of authority within the City.

ARTICLE II. GENERAL PROVISIONS

Section 1. "Application of Rules": These rules shall apply to all employees of the classified service as defined under Section 801 of the City Charter and Section 2.24.050 of the Whittier Municipal Code unless otherwise expressly stated herein.

Section 2. "Nondiscrimination Policy": No question in any examination, in any application form, or in any other personnel proceeding, or by any appointing authority shall be so framed as to elicit information concerning political or religious opinions or affiliations of an applicant, eligible, or employee, except as provided for in Section 806 of the City Charter. No appointment to or removal from a position in the classified service shall be affected or influenced in any manner because of race, color, religion, sex, pregnancy, national origin, age, handicap, disability or marital status, unless based upon bona fide occupational qualification. Nothing in this Section shall prohibit the refusal to appoint or remove a handicapped or disabled employee from the classified service, where the employee, because of his/her handicap or disability, is unable to perform the essential functions of the job with or without reasonable accommodation or which would not endanger his/her health or safety or the health and safety of others.

Section 3. "Loyalty Oath": All City employees are required to sign a loyalty oath as prescribed by the State Government Code.

Section 4. "Legal Residency": All candidates for examination and employees of the City shall be U.S. citizens or aliens authorized to work in the United States pursuant to the provisions of the Immigration Control Act of 1986.

Section 5. "Violation of Rules": Violation of the provisions of these rules may be grounds for disciplinary action in accordance with Section 804 of the City Charter.

Section 6. "Amendment and Revision of Rules": (Section 709a of the City Charter). Proposals for revisions and amendments to these rules and regulations shall be submitted to the Personnel Board for consideration. Any proposed amendment or revision shall be posted at such places as the Board shall prescribe, for at least ten (10) consecutive days together with notice of time, place and date of hearings by the Personnel Board. At the time of consideration, any interested person may appear and be heard. Within thirty (30) days following such hearing the Personnel Board shall direct a communication to the City Council recommending the adoption or rejection of the proposed amendment or revision. Amendments and revisions shall become effective upon adoption by the City Council. (Note: A collective bargaining agreement approved by the City and exclusive employee organization is a binding contract. Thus, any amendment or revision to the personnel rules and regulations which is contained in a collective bargaining agreement shall not be subject to this section.)

Section 7. "Department Heads": Department Heads are responsible for effective enforcement of the Personnel Rules and Regulations. Any notice or infraction or violation of these rules which warrant cause for disciplinary action or warning shall be made to the employee in writing with a copy of such warning going to the Human Resources Director for placement in Central Human Resources Files. Likewise, any meritorious conduct worthy of notation shall be handled in the same manner. These files will be the basis for review in any disciplinary or appeal hearings. Department Heads shall notify the Human Resources Director immediately of changes in the assignment of duties to employees. A Department Head may adopt and administer personnel regulations which are supplementary to and not inconsistent with the Personnel Rules and Regulations. Such Department rules and regulations shall be put in writing and submitted to the City Manager for approval and a copy filed with the Human Resources Director.

Section 8. "Conflict with Rules": Any provisions contained in a Memorandum of Understanding reached between the City and a recognized employee organization pursuant to California Government Code Sections 3500, et seq. shall control where there is conflict between specific provisions of the Memorandum of Understanding and these Rules. Employees shall be given appropriate notice of all subsequent changes to these Rules.

ARTICLE III. CLASSIFICATION PLAN

Section 1. "Preparation of Plan": The Personnel Board, the Human Resources Director or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the classified service and, after consultation with the City Manager and head of department affected, the Personnel Board shall recommend to the City Council a classification plan for such positions. The classification plan shall consist of classes of positions in the classified service defined by class specifications, including title, a description of typical duties and responsibilities of positions in each class, a statement of training, experience and other qualifications to be required of applicants for positions in each class.

The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

The definition of duties as listed in said specifications is to be interpreted as examples of duties only, not definite and final in detail.

Positions are allocated to the various classes and should not be construed as limiting the assignment of duties and responsibilities to any position. The use of a particular expression, or an illustration as to duties, should not be interpreted to exclude others not mentioned that are of similar kind or quantity. The specification for each class should be

considered in its entirety and in relation to other classes in the classification plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications desired, and relation to other positions, as affording together a picture of the kind of employment the class is designed to embrace.

Section 2. "Adoption of Plan": Before the classification plan or any part thereof shall become effective, it shall first be approved in whole or in part by the City Council. Upon adoption by the Council, the provisions of the classification plan shall be observed in the handling of all personnel actions and activities. The classification plan shall be amended or revised as occasion requires in the same manner as originally established.

Whenever the City Manager or designee deems that there is reason for establishing a new class or amending or changing an old class in order to prevent the stoppage of public business or to permit the announcing and holding of an examination without delay, he/she may establish such class and may make an appointment to said class subject to formal action by the Personnel Board and City Council. The creation of such classification shall be subject to the Board's approval and the Council's ratification. Any appointment to such classification shall be deemed as a provisional appointment in accordance with these rules. If the City establishes a new classification or amends or changes an existing classification, the City has the right to establish the class title, class specification and salary range and recognizes its obligation thereafter to provide the exclusive employee organization the opportunity to meet and confer on the salary range.

Section 3. "Allocation of Position": Each position in the classified service shall be allocated by the Human Resources Director to one of the classes established by the classification plan. Except as otherwise provided by the City Charter or these rules, no person shall be appointed or promoted to fill any position not established until the classification plan has been amended accordingly. In the event that a position is upgraded and the department head determines that the employee(s) in the lower level position possess the qualifications of the upgraded position, the examination process may be waived subject to concurrence by the Human Resources Director, the employee(s) may be appointed to the upgraded position and shall attain regular status upon satisfactorily completing the probationary period as provided in these rules. If the number of qualified employees exceed the number of upgraded positions, a competitive examination shall be conducted.

Section 4. "Reclassification": Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated to a more appropriate class, whether new or already created, in the same manner as originally classified and allocated. Reclassification shall not be used for the purpose of avoiding restrictions surrounding demotions and promotions.

The Human Resources Director shall make periodic studies of employee position specifications to determine if they are properly classified and make recommendations to the City Manager. After a review of the economic indicators and labor market, or if the City Manager determines that City employment conditions have changed, a complete survey of all classifications will be made.

A department head or employee may at any time request consideration of a change in the classification of his/her position. The department head must send a written request to the Human Resources Director. Such memo must contain recommended classification or range, reason for reclassification or range adjustment, how the duties have changed, what caused change in duties, how the position is comparable to those in the proposed range, impact of the change on the department's organization. The Human Resources Director will review the request. If a change is warranted, the Human Resources Director will transmit the recommendation to the City Manager. An employee will be notified in writing of the City Manager's determination of reclassification.

ARTICLE IV. PAY PLAN

Section 1. "Establishment of Plan": A pay plan shall be established by Resolution of the City Council on the recommendation of the City Manager, showing the rates of pay by range and step for each position in the classified service. Such Resolution may be amended at any time subject to any obligation to meet and confer under the Meyers-Milias-Brown Act.

Section 2. "Rate of Compensation": The Salary Resolution, as adopted by the City Council, shall show the advancement in rate of compensation of new employees from the minimum to the maximum steps in the assigned ranges.

Section 3. "Promotions": In case of promotion, the employee will be paid the minimum rate of the appropriate pay range or one pay step higher than his/her current pay rate, whichever is higher, provided that the pay increase shall not be less than four percent (4%). An employee, who within thirty (30) days of his/her salary anniversary date is promoted to a class with a higher salary range shall first receive any within-range increase to which he/she is entitled, and then the higher step as provided in this section.

Section 4. "Pay Scale": Employees occupying a position in the classified service shall be paid a salary within the range established for that position's class under the pay plan as provided by the salary resolution.

Candidates normally are appointed at Step 1 within the appropriate salary range but may be appointed at a higher step depending upon the qualifications of the candidate, recommendation of the appointing authority and approval of the Human Resources Director. Appointment above Salary Step 3 requires the prior approval of the City Manager.

The normal time it takes an eligible employee to reach the top step of the salary range is four (4) years. This eligibility is contingent upon satisfactory performance evaluation and recommendation of the immediate supervisor.

The normal time between salary steps is as follows:

<u>Steps</u>	<u>Time</u>
1-2	6 months
2-3	6 months
3-4	1 year
4-5	1 year
5-6	1 year

Notwithstanding the above, upon recommendation of the appointing authority, the City Manager may authorize advancement from any step to any step within the range upon completion of probation or at the time either a six (6) or twelve (12) month performance rating and review is conducted, except that no more than three (3) steps may be advanced at any one time. Such extraordinary step advancement shall be predicated upon a determination or recognition of unusual qualifications and experience or exemplary job performance, and prior approval of the Department Head, Human Resources Director and City Manager.

Effective Date: The effective date of step increases will be the first of that pay period nearest the anniversary date. This schedule will in no way affect the employee's anniversary date for vacation or seniority determination. In the event that the completion of the employee's evaluation exceeds sixty (60) days from the effective date the salary increase would be due, and the employee is not notified in writing by his/her Department Head that the increase will be withheld, the employee shall receive an automatic increase, retroactive to the date it was originally due. Notwithstanding the above, any automatic salary increase may be revoked subject to providing the employee prerule removal due process in accordance with Section 804 of the City Charter.

Step Increase Withheld: If a salary step increase is not granted for a Regular Employee, he/she has the option to meet with his/her department head within seven (7) calendar days as to why the step increase should be granted. If the department head is the employee's immediate supervisor, a City Manager designee shall meet with the employee. The employee is entitled to have another person of his/her choosing present at the meeting whose role shall be in an advisory capacity to the employee.

The date of entry of any employee into a promoted position shall constitute a new anniversary date for such employee for pay purposes.

ARTICLE V. APPLICATIONS AND APPLICANTS

Section 1. "Examination Announcements": Recruitments for positions in the classified service shall be published by posting announcements in the City Hall, on official bulletin boards, and in such other places as the Human Resources Director deems advisable. Announcements shall be made at least ten (10) days before the last date for filing applications for promotional and open competitive examinations. The announcements shall specify the title and pay range of the class for which the examination is announced; the nature of the work to be performed; qualifications desirable for the performance of the work of the class; the date, time, place and manner of making application; closing date for receiving application; and any other information deemed pertinent by the Personnel Board.

Section 2. "Application Forms": Applications shall be made on forms approved by the Personnel Board. Such forms shall require information covering training, experience, and other pertinent information. Certificates of one or more examining physicians, psychiatrists or psychologists may be required. Paper employment applications must be signed by the person applying, and on-line applications must provide the equivalent of an electronic signature in the manner determined by the City. All persons employed by the City shall be fingerprinted. Any false information or misrepresentations provided by the applicant on the application may be grounds for disqualification or subsequent discharge by the appointing authority.

Section 3. "Disqualification": The Human Resources Director or designee shall reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant prior to the examination date.

The Human Resources Director or designee may require applicants to furnish evidence of good character and/or sound health and physical ability and/or psychological fitness to perform successfully the duties of the position applied for, as he/she may deem necessary.

The Human Resources Director or designee may disqualify an applicant either before or after the applicant has been examined for any material cause, which in the judgment of the Human Resources Director, would render the applicant unfit for the particular position for which the application is filed, including a prior resignation from the City service accepted with prejudice. The Human Resources Director may reject the application, and may cancel the eligibility of the applicant if he/she has been placed on an eligible list, and may require his/her dismissal from the service if he/she has been appointed to a position prior to final determination of the pertinent facts as related to a cause for disqualification.

Section 4. "Nepotism":

(a) Appointment to Civilian Classified Positions and to Police Lieutenant and Police Captain Positions: No person shall be appointed to a position in the City's classified service if that person is a relative of a member of the City Council, City Manager, Assistant City Manager, appointing authority or a member of the Personnel Board unless : 1) he or she can show that such appointment would not have the potential for creating an adverse impact on supervision, safety, security or morale, or

involve a potential conflict of interest; and 2) such appointment is approved in advance by the City Council.

The City shall not hire or place a relative of a City employee under direct supervision or in the same department, division or facility of a City employee where such has the potential for creating an adverse impact on supervision, safety, security or morale, or involve a potential conflict of interest.

Relative shall include an employee's parent, child, spouse, domestic partner, sibling, grandparents and spouse's or domestic partner's immediate family and grandparents of spouse or domestic partner. Relative may also include any person related by blood, marriage or domestic partnership if there is a potential for creating an adverse impact to supervision, safety, security, morale or a conflict of interest.

Domestic partners are two adults who have chosen to share one another's lives in a committed relationship of mutual caring, have a common residence, are jointly responsible for each other's basic living expenses, and are not related by blood in a way that would prevent them from being married in California.

Action by City Manager: Where the City Manager determines that an applicant for a position in the classified service is a relative a person who holds a position in the City's classified service, he/she shall disqualify such applicant unless he/she finds:

- (1) That the appointment of that person to a position in the classified service will not result in that person's immediate supervision by a relative; and
- (2) Such appointment will not otherwise give rise to a potential or actual adverse impact on safety, security or morale or create a conflict of interest by reason of such relationship.

Where the City Manager makes such a determination, the person seeking employment in the classified service shall be disqualified by reason of such relationship.

Existing Employees: Upon the marriage or domestic partnership or other creation of relationships due to marriage or domestic partnership of two City employees or adoptions by City employees which could potentially impact supervision, safety, security or morale, or create a conflict of interest, the Department Head shall notify the Human Resources Director. The Human Resources Director and/or designated representative shall be responsible for consulting with the Department Head and the specific employees to determine if an accommodation can be reached to avoid the impact or conflict. In the event that the impact or conflict of interest cannot be eliminated, the least senior employee shall be transferred to a comparable vacant position, if available, and compensated at the salary range of the new position in another department or placed on a reemployment list as provided by these rules. The City Manager shall be the final determining authority in all such matters.

(b) Appointment to Police Officer and Police Sergeant: No person shall be appointed to a position in the City's classified service if that person is a relative of the City Council, City Manager, Assistant City Manager, appointing authority or a member of the Personnel Board unless: 1) that person applies for, competes, and is eligible for appointment as provided in these rules; 2) it is shown that such appointment would not have the potential for creating adverse impact on supervision, safety, security or morale, or involves potential conflicts of interest; and 3) such appointment is approved in advance by the City Council.

The City shall not hire or place a party under direct supervision or in the same department, division or facility where such has the potential for creating adverse impact on supervision, safety, security or morale, or involves potential conflicts of interest. For

purposes of this section, relatives shall include an employee's parent, child, spouse, sibling, grandparents and spouse's immediate family and grandparents of spouse.

Action by City Manager: Where the City Manager determines that an applicant for a position in the classified service is a member of the immediate family of a person who holds a position in the City's classified service, he/she shall disqualify such applicant unless he/she finds:

- (1) That the appointment of that person to a position in the classified service will not result in that person's immediate supervision by a member of that person's immediate family; and
- (2) Such appointment will not otherwise give rise to a potential or actual conflict of interest by reason of such relationship.

Where the City Manager determines that no such supervision or conflict of interest will result, the person seeking employment in the classified service shall not be disqualified by reason of such relationship.

Existing Employees: Upon the marriage or other creation of relationships due to marriage of two City employees or adoptions by City employees which could potentially impact supervision, safety, security or morale, the Department Head shall notify the Human Resources Director. The Human Resources Director and/or designated representative shall be responsible for consulting with the Department Head and the specific employees in accommodating the situation in accordance with these guidelines. In the event that a conflict of interest as defined by these rules exists, the least senior employee shall be transferred to a comparable vacant position, if available, and compensated at the salary range of the new position in another department or placed on a reemployment list as provided by these rules. The City Manager shall be the final determining authority in all such matters. Notwithstanding the above, in the event there is not a comparable vacant position, the employee will continue to receive his/her regular salary and be reassigned to another position to be determined by the City for a period up to one (1) month prior to termination.

ARTICLE VI. EXAMINATIONS

Section 1. "Subjects and Methods of Examination": The City shall utilize examination procedures designed to determine the relative qualifications and abilities of candidates for positions. Examinations may consist of one or more selection techniques which will determine the qualifications of candidates including but not limited to screening and evaluation of applications, written tests, oral interviews, performance tests, physical agility tests, medical examinations, psychological fitness tests, practical demonstrations, or any combination thereof, or any other form which will determine the qualifications of applicants. The weight to be given the evaluation of the testing procedures shall be determined by the Human Resources Director or designee. The City may contract for the preparation and conduct of examinations as deemed necessary.

Section 2. "Types of Examinations": The types of examinations are promotional and open competitive.

Section 3. "Qualifying Grade and Rating Examinations": In all examinations the minimum grade or standing for which eligibility may be earned shall be based upon factors in the examination including educational requirements, experience, and other qualifying elements as shown in the application of the candidates or other verified information. Each section of the examination shall be graded independently. This grade shall be multiplied by the weight assigned to such section as established by the Human Resources Director and set forth in the examination announcement.

The average percentage for the proficiency required for passing shall be determined by the Human Resources Director or designee after consideration of the quality of the candidates, the number of vacancies, and the needs of the service.

Failure in one part of the examination may be grounds for declaring such applicants as failing in the entire examination, or as disqualified for subsequent parts of the examination.

Any examination or any part thereof may be postponed or canceled, if necessary by the Human Resources Director or designee. Notice of such postponement or cancellation shall be given to all applicants.

Section 4. "Notification of Results": Each applicant taking the examination shall be given written notice of the results thereof and if successful, his/her final earned rating and his/her position on the eligible list. Except as noted below, any candidate shall have the right to inspect his/her own examination answer sheets, the correct answers and/or a copy of the question booklet within ten (10) days after the notices of examination results have been mailed. The following materials are not open to candidate inspection: standardized or copyrighted tests, components of continuous tests which are to be used again, interview rating sheets or other examination materials not subject to scoring by absolute standards and/or professional references. The inspection time allowed a candidate will not exceed the amount of time originally allowed to answer the questions during the administration of the examination. During inspection, a representative of the Human Resources Department will be present. The candidate will only be allowed to take brief notes regarding any test materials. An error in grading or rating, if called to the attention of the Human Resources Director after establishment of the eligible list resulting from the examination, shall be corrected. Correction shall not, however, invalidate certification of appointment previously made.

Section 5. "Promotional Examination": As the needs of the service may require, promotional tests may be conducted from time to time and may consist of evaluation of prior service, accomplishments in special training courses and other examinations.

All candidates for promotions shall have attained regular employee status in the classified service and shall possess the minimum qualifications as set forth in the specifications of the class to which promotion is sought. Notwithstanding the above, employees in classified positions during their probationary period and employees in unclassified positions may apply if a promotional process is conducted for Police Officer Trainee. Further, employees in unclassified positions may apply if a promotional process is conducted for an entry level classified position.

For recruitments posted as Promotional, if only one (1) eligible application is received and the applicable department head determines that the applicant meets the requirements in the class specification for the promotional classification, subject to the approval of the Human Resources Director, the examination process in the recruitment notice may be waived, the candidate may be appointed to the position and shall attain regular status upon satisfactorily completing the probationary period as provided in these rules.

In the event that no candidate qualifies in a promotional examination, a period of six (6) months may elapse before another promotional examination will be scheduled for the same classification.

It is the policy of the City to fill vacancies in the classified service by promotional examination in the manner specified in these Rules whenever in the sole opinion of the City there is a sufficient number of qualified applicants.

If in the opinion of the Human Resources Director, approved by the City Manager, a vacancy in any position could be filled better by an open competitive examination instead of a closed promotional examination, or if in the opinion of the Human

Resources Director, approved by the City Manager, there are insufficient applicants to warrant the testing to fill a particular position on a promotional basis, the Human Resources Director may arrange for an open competitive examination.

Section 6. "Continuous Examinations": Continuous examinations may be administered for those classes of positions for which the Human Resources Director finds it difficult to maintain adequate eligible lists. Names of applicants on open-competitive lists created as a result of continuous examinations shall remain in effect for not more than one (1) year after the last administration of the examination. Names placed on such lists shall be merged with any other already existing list in order of final scores.

Unsuccessful applicants examined for a class for which continuous examinations are administered may not reapply for the same class within ninety (90) days of their previous application.

ARTICLE VII. ELIGIBLE LISTS

Section 1. "Eligible List": As soon as possible after the conclusion of an examination the Human Resources Director shall prepare and keep available an eligible list consisting of the names of persons successfully passing the examination. The names shall be arranged in three categories in order of final rating and/or total scores from highest to the lowest.

<u>Band</u>	<u>Rating</u>	<u>Total Score</u>
1	Very Well Qualified	90% - 100%
2	Well Qualified	80% - 89%
3	Qualified	70% - 79%

If the examination was given on both a promotional and open competitive basis two lists shall be formed.

The final rating shall be determined by the total of the scores received by each applicant for each part of the test, based upon the relative value assigned to each part of the test before the test was given.

Notwithstanding the above, for Police Sergeant, the following provisions shall apply:

Candidates who pass each examination will have their names entered on the eligible list as follows:

The candidates with the five highest total scores shall comprise the first group; candidates with the next five highest total scores shall comprise the second group; candidates with the next five highest total scores shall comprise the third group; etc. If there is a tie total score for the fifth (5th) position in any group, the group may contain more than five candidates. In this event the eligible list shall indicate the candidates who are tied for that position.

The candidates will be advised in writing of the group in which they finished, however they will not be advised of their rank within a group or their test scores. Notwithstanding the above, such candidates will be given their score on a multiple choice written examination if one is given.

In the event of a conflict between this provision and these personnel rules, this provision shall control.

Section 2. "Effective Date of Eligible Lists": Open competitive and promotional lists shall become effective upon certification by the Human Resources Director.

Section 3. "Duration of Eligible Lists": Open competitive and promotional lists shall remain in effect one year and may be extended by action of the Personnel Board for additional six (6)-month periods, but in no event shall an open competitive or promotional eligible list remain in effect for more than two (2) years. The Director of Human Resources or his/her designee is authorized to extend an Employment Eligible List, subject to the subsequent approval of the Whittier Personnel Board within ninety (90) calendar days after the Eligible List expiration date. In the event the Personnel Board does not extend an Eligible List, any appointment of a candidate made from that list will remain in effect.

Section 4. "Removal of Names From Lists": The name of any person appearing on an open competitive or promotional eligible list shall be removed by the Human Resources Director if the eligible requests in writing that his/her name be removed, or only on an open competitive list if he/she fails to respond to a notice of certification mailed to his/her last known address, or if he/she has been certified for appointment and has not been appointed, unless the hiring department wishes the name remain on the list. The names of persons on promotional eligible lists who resign from the service shall automatically be dropped from such lists. Names of those applicants stricken from the eligible list shall be restored on recommendation of the Human Resources Director and approval of the City Manager.

Section 5. "Restoration of Probationers to Eligible Lists": Any employee who during his/her probationary period is separated from the service without evidence of delinquency, misconduct or inefficiency on his/her part shall be restored to the eligible list from which appointment was made.

Section 6. "Promotional Lists": The names of competitors who are successful in promotional examinations as provided in these rules shall be placed on a promotional list which shall take precedence over the open competitive eligible list for the same classification. Notwithstanding the above, the Police Department may consider candidates on open competitive and promotional Eligible Lists simultaneously for Police Officer Trainee.

Section 7. "Reemployment": See Article XIII. Separation From Service, Section 5. Lay Off, e. Reemployment List under these Rules.

ARTICLE VIII. METHOD OF FILLING VACANCIES

Section 1. "Merit Principle": All appointments and promotions in the classified service of the City shall be made according to merit and fitness to be ascertained as far as practicable by competitive examinations.

Section 2. "Types of Appointment": All vacancies in the classified service shall be filled by reemployment, transfer, demotion, pre-service, lateral entry as may be authorized by the City Manager for specific positions, or by eligibles certified by the Human Resources Director or designee from an appropriate open competitive or promotional eligible list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be permitted in accordance with these rules. For classified civilian positions, the City will conduct a recruitment upon determining it will fill the vacant position. An eligible list shall be established within six (6) months for Police Officer and Police Sergeant.

Section 3. "Request to Fill Vacancy": The appointing authority shall notify the Human Resources Director or designee of the vacancy in advance of the date of the anticipated need, if possible, and make written request to fill the vacancy on forms prescribed. The Human Resources Director shall advise the appointing authority as to the availability of employees for reemployment, transfer, or demotion and the names on appropriate promotional or open competitive eligible lists for the class. No appointment to fill a vacancy in the classified service shall be made without prior approval of the City Manager or designee.

Section 4. "Certification of Eligibles":

- (a) If there is one (1) vacancy, at least seven (7) names shall be certified and a like number of names for each additional vacancy.
- (b) If there are fewer than the required number of names within Band 1, all of the names within Band 2 will be certified regardless of the number of candidates within that band, so that at least seven (7) names for each vacancy are certified. Similarly, if there are fewer than the required names within Band 2, all of the names in Band 3 will be certified so that at least five (5) names for each vacancy are certified. Names shall be certified by Band in alphabetical order.
- (c) Whenever an eligible list from which certification is to be made contains less than seven (7) names, the appointing authority may request that a new examination be held subject to approval of the Human Resources Director.

For the position of police officer, all applicants successfully passing all examinations will be certified to the appointing authority who may select any applicant on the eligible list.

Notwithstanding the above, for Police Corporal, Sergeant, Lieutenant and Captain the following provisions shall apply:

Upon the request of the Police Chief, the Human Resources Director will certify the names of eligible candidates as follows:

The names of the candidates in the first group will be certified and listed in alphabetical order, and their overall rank and scores also will be provided to the Police Chief. Whenever there are 3 or fewer names remaining in a certified group of candidates, the names of the candidates in the next group will be certified, listed in alphabetical order and their overall rank and scores also provided to the Police Chief. The Police Chief can appoint any one of the certified candidates regardless of their group.

If after certifying the first group of candidates, other groups of candidates are certified, it will be done so that the names in each group are identifiable as to their respective group and not commingled.

Whenever an eligible list contains fewer than five (5) names, the Police Chief may request that a new examination be conducted subject to the approval of the Human Resources Director.

In the event of a conflict between this provision and these personnel rules, this provision shall control.

Section 5. "Medical Examination": Passage of a medical and/or psychological examination may be required of all employees of the City prior to a new hire appointment. Any employee who in the opinion of the medical examiner is physically or mentally incapable of continuing to meet the essential requirements of his/her position may be reasonably accommodated or assigned to a classification of work which he/she is physically or mentally capable of performing if such a position is available; otherwise, any such employee may be dismissed. If an eligible fails to pass a medical or psychological examination his/her name shall be stricken from the eligible list.

No employee shall hold any position in a class where he/she is physically, mentally or psychologically unable to perform fully the duties of such position with or without reasonable accommodations and without hazard to either him/her self or others.

Within the limitations indicated, the City's policy shall be to make such efforts as are consistent with the provisions of these rules, to place physically or mentally disabled employees in such positions as are available in the City service where their disabilities will not affect their performance of duties. The employee's length of service, quality of performance, cause or nature of disability and the available openings shall be considered in placing disabled employees.

Section 6. "Fingerprints": No person shall be granted an appointment of any category in the service of the City who has not placed a copy of his/her fingerprints on file with the Police Department. The Chief of Police or designee shall provide reports concerning the outcome of all such fingerprint clearance to the Human Resources Director or designee.

Section 7. "Appointment": After interview and investigation the appointing authority may make appointments from among those certified and shall immediately notify the Human Resources Director or designee of the person or persons appointed. It shall be the responsibility of the Department Head to certify that after serious consideration he/she has selected the person or persons that will best serve the interests of the City.

Section 8. "Provisional Appointment": In the absence of an appropriate eligible list for a position in the classified service, a provisional appointment to a position may be made by the appointing authority subject to the approval of the City Manager or designee, of a person meeting the necessary minimum qualifications for the position. Individuals who receive a provisional appointment are not members of the classified service. No person shall be employed by the City on a provisional appointment for more than six (6) months unless prior approval is granted by the City Manager, to fill such vacancies caused by industrial injury or military leave, provided further that such appointment shall not exceed one (1) year. Prior to an appointment in the classified service, a provisional appointee shall apply for and participate in the examination process and must be certified on an eligible list, all in accordance with the applicable provisions of these Personnel Rules.

If a person holding a provisional appointment is selected for a classified position with the City, time served in the provisional appointment shall not be counted toward fulfilling the requirements of the probationary period for that position. Provisional employees may be removed from employment at any time and without a hearing or right of appeal. Provisional employees may be entitled to benefits as approved by the City Council, the City Manager, or as otherwise required by law.

It is the intent of the City that positions in the classified service be filled in the manner prescribed in these Rules and not by a succession of provisional appointments except in circumstances beyond the City's control that create a vacancy beyond six (6) months.

Section 9. "Emergency Appointment": To meet the immediate requirements of an emergency condition such as extraordinary fire, flood, earthquake, etc., which threatens public life or property, any appointing authority may employ such persons as may be needed for the duration of the emergency without regard to these rules affecting appointments. As soon as possible such appointments shall be reported to the City Manager. In no event shall emergency appointments exceed thirty (30) working days nor shall one person hold successive emergency appointments. No position shall be filled by a succession of emergency appointments. Individuals who receive an emergency appointment are not members of the classified service and may be removed from employment at any time and without a hearing or right of appeal.

ARTICLE IX. PROBATIONARY PERIOD

Section 1. "Objective of Probationary Period": An employee appointed from an open competitive eligible list or promotional eligible list shall not achieve regular status until after the expiration of a probationary period and he/she has received a performance evaluation with an overall rating of at least satisfactory. The probationary period shall be

regarded as a part of the examination process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his/her position. The appointing authority may reject any probationary employee at any time during the probationary period without cause and without the right of appeal.

Section 2. "Regular Appointment Following Probationary Period": All original and promotional appointments shall be tentative and subject to a probationary period of one (1) year of actual and continuous service. The probationary period shall continue to be in effect subject to the employee receiving a performance evaluation with an overall rating of at least satisfactory. If such evaluation is not presented to the employee within 30 days following the expiration of the probationary period, the employee will be deemed to have regular status. Periods of time on paid or unpaid leave exceeding thirty (30) consecutive or random work days, shall extend the probationary period by a like time period. At the discretion of the appointing authority any employee may have his/her probationary period extended for up to an additional six months, but for no longer. The appointing authority shall notify the Human Resources Director in writing of such contemplated extension of the basic probationary period, giving reasons. No vacation benefits shall be granted during the six (6) month extended probationary period, nor will pay increase be allowed. Accrued sick leave benefits may be used during the six (6) month extended probationary period unless the reason for extending the probationary period resulted from absences or attendance. Personnel subject to a probationary period may receive a pay increase after six (6) months of service upon receiving a job performance evaluation with an overall rating of Satisfactory or higher, after one year of service at the end of probation, and thereafter as provided in Article IV. Pay Plan of these Personnel Rules.

Section 3. "Rejection of Probationer": During the probationary period an employee may be rejected at any time by the appointing authority without the right of appeal. A rejection during the probationary period shall be effected when the appointing authority files a notice with the Human Resources Director. The notice shall include the effective date of rejection which shall not be later than the last day of the probationary period as prescribed in Section 2 of this Article.

Section 4. "Rejection Following Promotion": Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which he/she was promoted unless charges are filed and he/she is discharged in the manner provided in the City Charter and these rules for positions in the classified service.

ARTICLE X. ATTENDANCE AND LEAVES

Section 1. "Hours of Work": All offices of the City, except those for which special regulations are required, shall be open for business on all days of the year except Saturdays, Sundays, and holidays continuously from 8:00 a.m. to 5:00 p.m. The basic work week shall be forty (40) hours. Employees for whom necessity requires a different schedule than that generally applied shall work according to regulations prepared by the respective supervising officials and approved by the City Manager.

Section 2. "Attendance": Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported to the City Controller on the form and on the date he/she shall specify. Employees are expected to do their work at normal hours and only under unusual circumstances, with the approval of the City Manager, will this rule be altered.

Section 3. "Abandonment of Position": When an employee has been absent from work without authorization for more than three (3) days, and in the opinion of the department head, the employee has abandoned his/her position, the department head shall notify the Human Resources Director. The Human Resources Director shall thereafter notify the employee of the abandonment determination and that the employee

has one (1) working day upon receipt of notice to contact the City regarding his/her intent to return to work. Such notice shall be in writing and sent by certified mail or personal service to the last address listed in the personnel records.

Abandonment of position may include but not be limited to situations where an employee fails to respond within the first working day following receipt to the notice of abandonment of position, where an employee fails to return to his/her employment upon conclusion of any authorized leave of absence, where an employee fails to properly notify by telephone or in writing his/her immediate supervisor of absence due to sickness or injury, where an employee fails to appear for work without notification or express agreement between the supervisor and the employee as the use of any leave time as set forth under these Rules, or where an employee fails to keep his/her immediate supervisor apprised of disability status on a weekly basis unless otherwise directed by the supervisor on a more frequent basis.

Abandonment of position shall constitute an automatic resignation from City Service. In the event of an automatic resignation the employee may submit a written request for reinstatement and the reasons it was beyond his/her control to notify the City of his/her absence from work without authorization as provided in this section to their department head for consideration. The decision of the department head shall be final.

Section 4. "Sick Leave": All employees in the classified service shall be allowed to use accrued sick leave with pay on account of illness or injury other than that suffered in the line of duty. Sick leave shall not be considered as a privilege which an employee may use at his/her discretion but shall be allowed only in the case of necessity or in the case of actual non-industrial illness or injury.

In the event employees find it necessary to schedule a doctor or dentist appointment during working hours, said time shall be charged against accrued sick leave at a minimum charge of one hour for each such visit. Sick leave is hereby defined to mean the absence from duty of an employee because of illness or injury other than that suffered in the line of duty. Sick leave may be used in the event of death or illness in the immediate family as provided in the Personnel Rules.

No sick leave shall be granted during the first 6 months of the employee's original probationary period, but if regular appointment is received, sick leave shall be credited for time served during that initial 6-month period. Employees who have completed the first 6 months of their original probationary period and whose overall job performance is satisfactory or above, per their department head or designee, will be allowed to use their accrued unused sick leave. Notwithstanding the above, a Lateral Entry Police Officer may use their accrued sick leave during their probationary period.

An employee shall accrue eight (8) hours of sick leave for each calendar month of service. Sick leave used shall be deducted from the accrued leave. Regular employees working less than forty (40) hours per week shall be granted leave at the rate of one (1) workday for each one hundred seventy-three (173) hours of work. Employees who are granted a leave of absence with pay for any purpose, including Workers' Compensation temporary disability pay, shall continue to accrue sick leave at the regular prescribed rate during such absence.

In order to receive remuneration while absent on sick leave, the employee shall notify his/her immediate supervisor prior to or within two (2) hours after the time set for beginning his/her scheduled work shift. In order for any employee of the Police Department to receive remuneration while absent on sick leave, the employee shall notify his/her immediate supervisor on duty at least one (1) hour prior to the start of the employee's scheduled work shift. In order for Solid Waste Division employees to receive remuneration while absent on sick leave, the employee shall notify his/her immediate supervisor prior to the start of the employee's scheduled work shift.

Sick leave used shall be deducted from accumulated sick leave on the basis of one full hour for the first hour taken, no matter if less than one hour is taken. Thereafter, the

charge will be at the minimum rate of ¼ hour for each absence of ¼ hour or less. Time lost due to injury on the job (covered by the Workers' Compensation Act) is not charged to sick leave.

Department heads should be particularly watchful for excessive sick leave for personal illness which interferes with the employee's proper performance of duties. Such situations should be reflected on the employee progress reports. Serious cases shall be discussed with the Director of Human Resources so that the employee may be reassigned or discharged under one or more of the provisions of Civil Service Rules. Department heads should arrange with the Director of Human Resources for the medical examination of employees with doubtful physical qualifications which lead to prolonged or very frequent sick leave.

Based on employee sick leave use, such as the total number of hours used in excess of the annual accrual, pattern of use, or reporting ill when engaging in incongruous activity, the supervisor may request the employee to provide a statement from his/her doctor or other treating practitioner indicating the cause of the absence, ability of the employee to perform his/her normal duties or any work restriction. The employee may be required to file either a physician's or psychologist's certificate or a personal affidavit at the request of the Human Resources Director and/or the Department Head, stating the cause of the absence, ability of the employee to perform their normal and customary duties or any work restrictions. Sick leave with pay can only be granted upon the recommendation of the appointing authority of the employee. Abuse or excessive use of sick leave, including but not limited to unauthorized absence, a pattern of absences on specific days of the week or failure to provide medical verification, may be cause for disciplinary action up to and including termination. Reports of sick leave must be submitted by the Department Head to the City Controller, on the proper form. When the Department Head signs the payroll time sheet, he/she is also certifying that employees are entitled to the sick leave requested. In addition, the payroll time sheet will be the official record of employee sick leave use and accrual.

An employee laid off in accordance with Section 805 of the City Charter, upon reinstatement from a reemployment list, shall have restored to his/her credit the accumulated sick leave earned to the time of his/her lay-off.

Accumulated sick leave is lost when an employee is terminated except that at the time of separation or retirement, the employee shall receive pay at the employee's current rate as follows:

- (a) Regular non-sworn employees shall be paid for all accrued unused sick time in excess of 500 hours, however such payment shall not exceed 360 hours.
- (b) Regular sworn police employees shall be paid for all accrued unused sick time in excess of 500 hours, however such payment shall not exceed 340 hours.

All regular employees are granted credit for unused and unpaid sick leave at retirement pursuant to California Government Code Section 20862.8, et. seq. Such service credit may either be applied toward early retirement or applied to indicate additional service credit beyond the actual date of employee retirement.

No employee shall be entitled to sick leave with pay while absent from duty on account of:

- (a) Disability arising from any sickness or injury purposely self-inflicted or caused by any willful misconduct.
- (b) Disability or illness arising from compensated employment other than with the City of Whittier.

Illness in Immediate Family

For non-sworn employees, after six (6) months of satisfactory job performance, not more than forty (40)* hours of accrued sick leave within any calendar year shall be granted to an employee for the care or attendance upon members of his/her immediate family as defined below. In addition to the hours of accrued sick leave an employee can use for the care or attendance of an Immediate Family Member per State law, an employee can use up to an additional fifty-two (52) hours of accrued sick leave per calendar year to care for an Immediate Family Member, as defined in the City's Personnel Rules, who has a catastrophic illness or injury as determined by the City. The City may require the employee to furnish a certification periodically from a qualified doctor that the Immediate Family Member requires such care and an estimated date such care will no longer be required. For sworn police employees, after six (6) months of satisfactory job performance, not more than thirty-two (32)* hours of accrued sick leave within any calendar year shall be granted to an employee for the care or attendance upon members of his/her immediate family. For purposes of this section, immediate family shall be defined as the employee's spouse, children, parents, brothers and sisters and spouse's children. For non-sworn employees, an employee's Domestic Partner will be included in the definition of "Immediate Family" for which an employee can use their accrued sick leave as long as the California Domestic Partner Rights and Responsibilities Act of 2003 (AB 205) remains in effect. A Domestic Partner is an individual who is recognized as a Domestic Partner pursuant to the State of California Family Code Section 297 *et. seq.*

(***Note:** State law provides that employers shall allow up to one-half of "accrued and available" sick leave in a calendar year to be used for family illness. Thus, the aforementioned employees may use up to 48 hours of "accrued and available" sick leave for family illness per calendar year.)

The Human Resources Director and/or the Department Head may require evidence in the form of a physician's or psychologist's certificate, or otherwise, of the adequacy of the reason for an employee's absence during the time for which sick leave was requested for an illness in the family.

Any employee absent from work for a period of seven (7) consecutive calendar days, due to illness, may at the discretion of the Human Resources Director and/or the Department Head be required to submit to a physical or psychological examination before returning to active duty. Any employee absent from work for any period of time in excess of seven (7) consecutive calendar days, due to illness, accident or injury, shall be required to submit to a physical examination before returning to active duty. At the discretion of the department head or Human Resources Director, such examination shall be performed by a physician stipulated by the City and shall be at City expense, or performed by the employee's personal physician who shall furnish the City with a written release to work including any work restrictions.

From the standpoint of the employee's welfare, he/she shall not return to work if the medical condition is such that return to work would result in danger to self or to other employees.

Sick pay allowance will not be granted due to sickness or accidents while an employee is on an authorized leave of absence without pay, is laid off, is absent from work for any other reason, without approval of the City Manager. Sick leave will not be granted for an illness contracted during a vacation period in lieu of vacation leave unless under the care of a physician and only during the period of physician's care. An employee on vacation who becomes seriously ill or injured may request that sick leave be substituted for vacation for each full day the employee is under the care of a physician. Such request must be substantiated by the physician's certificate showing the number of full days the employee was incapacitated and under his/her care.

Frequent use of sick leave may constitute grounds for assumption that the employee does not meet the physical requirements of the job.

Legal holidays will be considered as sick leave if the employee is off work on account of non-industrial illness or injury the work day before and the work day after such holiday except that, employees shall receive holiday pay in lieu of sick leave pay for holidays falling within a period of forty (40) or more continuous hours of absence due to illness or three (3) continuous days of absence due to death in the family.

Section 5. "Holidays": Municipal offices shall be closed on legal holidays in accordance with the City's Salary Resolution adopted by City Council. If an employee is scheduled to work on a holiday and does not work, he/she shall not be entitled to holiday pay or another day off in lieu thereof.

An "Off Shift" employee shall be entitled to the same number of paid holiday hours within a given calendar year as the "Regular Shift" employee, which may be legal holidays or other days.

The head of the department shall designate the holidays for such employees. These holidays may be taken concurrently with annual vacation leaves at the discretion of the Department Head, but his/her decision in this respect shall be final and conclusive; provided, however, that the employee shall have taken such holiday time prior to the end of each calendar year or received written approval from the City Manager to carry them over into the following year.

Section 6. "Vacation": All regular employees shall accrue annual vacation leave with pay, on a pro-rata basis, predicated on continuous service, according to the following schedule, with the exception of sworn police personnel.

<u>Civilian Employee Annual Vacation</u>	
<u>Beginning</u>	<u>Leave Accrual</u>
Date of Hire	80 Hours
<u>Upon Completion Of:</u>	
5th Year	120 Hours
10th Year	128 Hours
11th Year	136 Hours
12th Year	144 Hours
13th Year	152 Hours
14th Year	168 Hours
19th Year and every year thereafter	176 Hours

Non-sworn employees who have completed the first 6 months of their original probationary period and whose overall job performance is satisfactory or above, per their department head or designee, will be credited with forty (40) hours of vacation leave for use.

All sworn police personnel shall accrue annual vacation leave, on a pro-rata basis, predicated on continuous service, according to the following schedule:

<u>Sworn Police Annual Vacation</u>	
<u>Beginning</u>	<u>Leave Accrual</u>
Date of Hire	80 Hours
<u>Upon Completion Of:</u>	
5th Year	128 Hours
10th Year	136 Hours
11th Year	144 Hours
12th Year	152 Hours
13th Year	160 Hours
14th Year	168 Hours
15th Year	184 Hours
20th Year and every year thereafter	192 Hours

Sworn police officers who have completed the first 6 months of their original probationary period and whose overall job performance is satisfactory or above, per their department head or designee, will be credited with forty (40) hours of vacation leave for use. Notwithstanding the above, a Lateral Entry Police Officer, upon completion of his/her field training, as determined by the City, may use their accrued vacation leave during their probationary period.

When a holiday comes during an employee's assigned vacation and the employee is regularly entitled to said holiday, it will not be counted as part of the vacation time. Leave of absence with pay for sickness or other authorized purpose shall not be counted against said vacation or be deducted from the days of service required to entitle one to a vacation on the basis of continuing service.

The time at which an employee shall take his/her vacation shall be determined by the supervising official with due regard to the wishes of the employee and particular regard for the needs of the service. The vacation period as set up by the various Department Heads shall be subject to the approval of the City Manager.

Eligible employees may accrue vacation leave up to one and one-half times of their annual accrual to which they are entitled by length of service. After the employee reaches the accrual maximum, the employee shall not earn additional vacation leave, unless permitted to accrue additional by written permission of the City Manager or designee. When an employee is required to postpone vacation leave in the interest of the department, the City Manager may authorize accumulation of vacation time beyond the normal accumulation limits for the year. The City Manager will determine the accumulation for such instances. If an employee accumulates vacation time beyond the annual entitlement limit without the approval of the City Manager, the department head may require the employee to take vacation leave according to a schedule that best meets the interest of the department.

Any employee who completes six (6) months of service with the City, and thereafter separates from City service, shall be paid regular compensation for any vacation earned but not taken as of the effective date of such separation.

Vacation Cash-In:

- (a) If an employee uses zero (0) accrued sick leave* for any purpose in a year (defined as the start of the first pay period through the end of last pay period in a calendar year), he/she shall have the option to be paid for up to 40 hours of his/her accrued vacation leave at his/her regular hourly pay rate (excluding special pay such as shift differential pay, move-up pay, etc.) in effect on the last day of the last pay period in the calendar year. An eligible employee shall notify the Controller's Department of the number of accrued vacation hours up to 40 that he/she wants to cash-in by the end of the first pay period in January, and payment shall be made to the employee in the second pay period that begins in January. The number of accrued vacation leave hours cashed-in by the employee will be deducted from his/her total hours of accrued vacation leave. An employee may not request "advance vacation accrual hours" for vacation cash-in. (*For regular, non-sworn employees, Personal Necessity Leave that is charged to an employee's accrued sick leave will not be considered sick leave use in order for an employee to qualify for cash-in of accrued vacation leave.)
- (b) Effective the first pay period in January 2008, police sworn employees can cash in up to 80 hours of accrued unused vacation leave if he/she has used at least 80 hours of vacation leave in the prior year (defined as the start of the first pay period through the end of the last pay period of the calendar year) and after the cash in he/she will have an accrued unused vacation leave balance of at least 100 hours. Employee requests must be submitted in writing to the City Controller no later than the end of the first pay period in November. The employee will be paid at his/her unadjusted base hourly rate of pay in the second pay period in November. The number of accrued unused vacation leave hours cashed in by the employee will be deducted from his/her vacation leave accrual balance.

Advanced Vacation Leave: An employee may request to receive up to forty (40) hours of advanced vacation leave prior to earning the vacation leave. Such a request will be allowed in those cases that serve the best interest of the employee's department. Advanced vacation leave will not be allowed on an Advanced Paycheck. If the employee's request for advanced vacation leave is approved by his/her department head, he/she shall not be credited with accrued vacation leave in the future until he/she

has earned vacation leave hours equal to the advanced vacation leave hours he/she received.

Unusual/Emergency Conditions: Upon request of the Department Head and with the approval of the City Manager, in order to meet unusual or emergency conditions, an employee may be paid the straight time daily equivalent of his/her salary in lieu of vacation time off.

Section 7. "Military Leave": Military leave shall be granted in accordance with the provisions of Section 395 of the Military and Veteran's Code. In the event of military leave it shall be the Department Head's responsibility to notify the City Manager of such leave request within his department and supply to the City Manager a copy of the employee's military orders.

Section 8. "Leave of Absence": The Human Resources Director, upon recommendation of the Department Head, may grant a regular employee leave of absence without pay for not to exceed six (6) months. No such leave shall be granted except upon written request of the employee. Approval shall be in writing and a copy filed with the Human Resources Director.

Use of a Leave of Absence for a purpose other than that requested, may be cause for forfeiture of reinstatement rights. Failure on the part of an employee on leave to report promptly at its expiration may be cause for discharge.

Leave of absence without pay granted by the Human Resources Director shall not be construed as a break in service or employment, and rights accrued at the time the leave is granted shall be retained by the employee; however, vacation credits, sick leave credits, increases in salary and other similar benefits shall not accrue to a person granted such leave during the period of absence.

An employee reinstated after leave of absence without pay shall receive the same step in the salary range he/she received when he/she began his/her leave of absence. Time spent on such leave without pay shall not count toward service for increases within the salary range, and the employee's salary anniversary date shall be set forward one month for each thirty calendar days taken.

A leave of absence, with pay or without pay, granted to any employee shall not create a vacancy in this position. For the duration of any such leave of absence the duties of the position may be performed by another employee from the classified service on an acting assignment, or provisional employee, (Article VIII, Section 8), provided that any employee so assigned shall possess the minimum qualifications for such position.

Section 9. "Compensatory Time Off": It is the policy of the City of Whittier to avoid the necessity for overtime work whenever possible. If an employee is required to work overtime, such work shall be performed only with prior authorization of the Department Head or designee.

An employee may accrue up to a maximum of Compensatory Time Off as follows:

Civilian Employees	80 hours
Police Sworn Employees	100 hours

Overtime worked in excess of the above Compensatory Time accrual limit will be compensated as pay for the same period in which it is earned. Sworn Police employees may be compensated for up to 40 hours of accrued Compensatory Time, predicated on his/her first using any accrued Compensatory Time that exceeds 40 hours.

In those cases where efficient operation of the department would be impaired by the granting of compensatory time off, overtime work shall be compensated in accordance with the provisions of Section 12 of this Article at the discretion of the Department Head with approval of the City Manager.

Section 10. "Bereavement Leave": All regular employees will be granted up to three (3) working days time off in the event of death in the immediate family. Immediate family is defined to mean the employee's parent, child, sibling, spouse, grandparents, and grandchild, and spouse's immediate family, grandparents and grandchild. In the event an employee is required to travel outside the boundaries of Los Angeles County because of death in the immediate family the Department Head shall have the authority, subject to the approval of the City Manager or designee, to grant additional time off as in his/her opinion would be reasonably required for travel which shall be charged to accrued leave or compensatory time.*

Section 11. "Personal Necessity Leave": Employees (excluding management and confidential employees**) who have completed the first 6 months of their original probationary period and whose overall job performance is satisfactory or above, per their department head or designee, are eligible to use a maximum of twenty-four (24) hours of Personal Necessity Leave (PNL) each fiscal year for any reason, including for family purposes. In order to receive remuneration for PNL, the eligible employee shall request such leave and obtain the prior approval of the department head or designee whose concern shall be the requirements of the job and not the purpose of the leave requested. PNL is not a privilege and cannot be used at the employee's discretion. Police Department and Solid Waste employees must request the use of PNL at least one (1) hour prior to employee's scheduled time to report to work. PNL may not be used for periods exceeding one (1) work day at a time and must be used in increments of not less than one (1) hour.

For eligible civilian employees, the first 8 hours of PNL used is not deducted from any other accrued leave. The remaining 16 hours of PNL shall be charged to the employee's accrued sick leave. For eligible sworn employees, the 24 hours of PNL shall be charged to the employee's accrued sick leave. The employee must have sufficient accrued sick leave to cover the PNL requested. The department head or designee may approve the use of PNL in conjunction with vacation, holiday leave, sick leave, or compensatory time off if such use, in his/her opinion, does not affect the efficient operation of the department.

The City Manager or designee has full discretion in determining the use of PNL in the event of bona fide emergency situations where restrictions on its use apply.

Personal Necessity Leave may not be carried over from one fiscal year to the next fiscal year.

Section 12. "Overtime Pay": It is the policy of the City of Whittier to avoid the necessity for overtime work whenever possible. If an employee eligible to receive overtime pay is required to work overtime, such work shall be performed only with the authorization of the Department Head or designee. Police Sworn employees will be required to work overtime at the discretion of the Police Chief pending subsequent approval of the City Manager. An employee who works overtime may request that he/she be compensated either in pay or compensatory time off. Overtime pay may be granted in lieu of compensatory time off for overtime worked, conditioned on the efficient operation of the department, at the discretion of the Department Head and with approval of the City Manager, to any and all employees in the classified service, with the exception of those employees designated by the City as exempt under the Fair Labor Standards Act (FLSA).

* Bereavement Leave: Employees are also allowed up to an additional twenty-four (24) hours of paid leave, not charged to sick leave, to serve as an executor/executrix concerning a deceased "immediate family member." The employee must provide proof that he/she is the executor/executrix of the deceased "immediate family member."

** Per City Council approval August 28, 2001.

Incidental overtime is not compensable and shall not be credited as time worked. Incidental overtime is defined as overtime of less than eight (8) minutes, which is an immediate extension of an employee's work shift (i.e. before and after the employees' work shift).

Overtime is defined as the time worked by an employee that exceeds his/her scheduled workday of at least 8 consecutive hours, or exceeds forty (40) hours in a seven (7) consecutive day work period designated by the City. An employee who works overtime as provided in this section shall be compensated in pay or Compensatory Time Off at the rate of one and one-half (1.5) times the number of hours or portions thereof he/she works. Overtime compensation will be granted in increments of fifteen (15) minutes. An employee assigned to work on a holiday will receive compensation for a minimum of two hours. The rate of compensation would be determined in the same manner as any other holiday overtime.

In determining the number of hours worked by an employee for overtime purposes, use of the following leave time will be counted as if the employee actually worked:

- a. Sick Leave
- b. Vacation Leave
- c. Compensatory Time Off
- d. Personnel Necessity Leave
- e. City Designated Holidays

An employee will be compensated at his/her regular rate of pay (i.e. straight time pay) as indicated below or as provided in City policies:

- a. Police sworn employees on Para-Police assignments.
- b. City Designated Holiday that is on the employee's day off and he/she does not perform authorized work for the City.

Provisions shall be made for as equitable distribution of overtime as possible, consistent with efficient operations of each department, when such overtime is required.

Shift Change/Daylight Savings Time Change: Department/division shift changes occur at the beginning of a pay period. Instances arise where implementation of the rotation results in a reassigned individual working more or less than the number of work hours regularly required during either the City-designated payroll period and/or the FLSA designated work period.

In those instances where the shift rotation results in the working of more than regularly scheduled hours during the payroll and/or work period, overtime compensation shall be paid pursuant to the MOU.

In those instances where the shift rotation results in the working of less than the regularly scheduled hours of work during a payroll and/or a work period, the employee shall either be paid for the actual hours worked, or shall be provided the option of utilizing earned and accrued leave time (not including sick leave) in order to fund those hours not worked as a result of the shift rotation.

The same provision for shift change above also shall apply when the time is changed to Daylight Savings and off again.

Section 13. "Flex Time": A civilian employee and his/her supervisor can mutually agree in writing to flex his/her work schedule within the same work week so that daily overtime is not incurred.

Section 14. "Outside Employment": An employee shall not engage in any employment, enterprise, or outside activity which is in conflict with his/her duties, functions, responsibilities, or the department by which he/she is employed, nor shall he/she engage in any compensatory outside activity which will directly, or indirectly, contribute to the lessening of his/her effectiveness as a City employee.

Authorization: Any employee wishing to engage in an occupation or outside activity for compensation shall inform the department head of such desire, providing information as to the time required and the nature of such activity, and such other information as may be required. The department head shall consult with the Human Resources Director to determine whether or not such activity is compatible with the employee's City employment.

The request of outside employment shall be filed annually on January 1 thereafter and at any other time a change occurs in the character or extent of outside employment. Such approval may be revoked at any time subject to written notification to the employee by the department head.

Determination of Inconsistent Activities: In making a determination as to the consistency or inconsistency of outside activities, the department head shall consider, among other pertinent factors whether the activity:

- (a) Involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's City office or employment;
- (b) Involves receipt or acceptance by employee of any money or other consideration from anyone other than the City for the performance of an act which employee, if not performing such act, would be required or expected to render in the regular course of his City employment or as a part of his/her duties as a City employee;
- (c) Involves the performance of an act in other than his capacity as a City employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed;
- (d) Involves conditions or factors which would probably directly or indirectly lessen the efficiency of the employee in his/her regular City employment or conditions in which there is a substantial danger of injury or illness to the employee.

Using City Property and Wearing City Apparel Prohibited: In no case shall the individual work on outside employment wearing apparel which directly identifies him/her with the City of Whittier, without prior written approval of his/her department head. No City owned equipment, autos, trucks, instruments, tools, supplies, machines or any other item which is the property of the City shall be used by any employee while said employee is engaged in any outside employment or activity, or compensation or otherwise without the prior written approval of his/her department head.

No employee shall allow any unauthorized person to rent, borrow or use any of the items mentioned above except upon prior order of his/her department head.

Police Department employees on acceptance of any outside employment shall by such activity waive compensation, provided under Section 4850 of the Labor Code of the State of California, in case of any injury sustained during such outside employment, or

any aggravation of any injury which was sustained while on duty, by, through or during said outside employment. In the event that sworn police personnel, while engaged in outside employment, finds it necessary to exercise his/her duties as a law enforcement officer, such waiver would not be applicable.

Prior to doing any outside work or engaging in any outside business activity pursuant to permit, all employees shall be required to sign a waiver of any rights they may have under Section 4850 of the Labor Code of the State of California for compensation in case of any injury sustained during such outside employment or business activity, or any aggravation of any injury which was sustained while on duty, by, through or during said outside employment or business activity; such waiver to be on forms provided by the Human Resources Director.

Violations and Penalties: Any violation of the provisions herein contained respecting outside employment or activity, use of City property, or wearing of City identifying apparel shall constitute sufficient grounds for disciplinary action including dismissal of the employee guilty thereof from the City service.

Section 15. "Industrial Accident Leave": In those instances where an employee is disabled due to injury or illness arising out of and in the course of his/her employment, such employee shall be entitled to leave of absence and benefits in accordance with City Ordinance No. 1977, adopted August 23, 1972, and as may be thereafter amended.

Section 16. "Administrative Leave": The appointing authority or designee has the right to place an employee on Administrative Leave with pay for any reason deemed appropriate.

Section 17. "Jury Duty Leave": The City shall compensate employees in the classified service for jury duty at their regular rate of pay (excluding special pay such as shift differential pay, move-up pay, etc.) for the minimum number of days required by State law or five (5) days whichever is less. In order for this time to be extended, the Jury Supervisor or presiding judge of the court must obtain the prior approval of the City Manager or designee. In the event of a disagreement between the court and the City regarding and employee's jury service, the employee will not suffer a loss of pay. If jury duty falls on the employee's regular scheduled work day, he/she will be paid by the City for his/her regular number of scheduled work hours for that day. If jury duty falls on the employee's non-work day, he/she shall not be paid by the City for that day. The employee shall be entitled to keep any mileage allowance provided by the Court. The employee shall remit to the City the amount of pay he/she received from the court for jury duty (except he/she shall keep the court remuneration for jury duty served on his/her non-work day). Employees will report to work before and/or after jury duty as may be needed by the City.

ARTICLE XI. CHANGES IN EMPLOYMENT STATUS

Section 1. "Promotion": Insofar as practicable and consistent with the best interests of the service all vacancies in the classified service shall be filled by promotion from within the service, after a promotional test has been given and a promotional eligible list established.

Section 2. "Transfer": No transfer shall be made without the approval of the City Manager. After notice to the Human Resources Director, an employee may be transferred by the appointing authority at any time from one position to another position in the same or comparable class except as provided in Section 17.D "Move-Up Pay" of the Salary Resolution. In order to effect a transfer from the jurisdiction of one supervising official to another, if the transfer involves change of jurisdiction, it need only have the consent of the employee and the prospective supervising official. The City Manager may order the transfer for purposes of economy or efficiency. Transfers shall not be used to effect a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the City Charter and in these rules. No person

shall be transferred to a position for which he/she does not possess the minimum qualifications for which a qualifying examination may be required.

An employee who receives an approved transfer shall serve a 12-month probationary period. If the employee does not satisfactorily pass his/her probationary period, he/she would go back to the position from which he/she transferred, unless the reason for not passing the probationary period would be grounds for discipline. If discipline is imposed, the employee retains his/her right of appeal as may be applicable.

In the event an employee transfers from one department to another within the City by any method other than promotional examination, such transfer shall be considered a technical termination. A technical termination does not in any way affect the employee's City service continuity or accrued benefits under the sick leave or vacation program. It does, however, establish a new position date within the department for vacation preference or other benefits determined on a departmental seniority level. Such technical termination also eliminates preemptive rights to be restored to the position so vacated as a result of this transfer.

Section 3. "Demotion": Demotions shall be effected in accordance with Section 804 of the City Charter and Article XIII, Section 5 of these Rules. Upon request of the employee, and with consent of the prospective supervising official, demotion may be made to a vacant position as a substitution for lay-off. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications.

Section 4. "Conformance to Nepotism Policy": Every promotion, transfer or demotion will be evaluated and implemented if it is determined such would not be in conflict with provisions of Article V, Section 4, Nepotism.

ARTICLE XII. GENERAL EMPLOYMENT PROVISIONS

Section 1. "Attachment of Wages": Employees of the City who have an attachment or other garnishment levied on their salary or wages shall be granted a period of not to exceed the time period as specified by the State of California to arrange for the payment of or other disposition satisfactory to the Department Head. If such arrangement is not made within the above period, then a review shall be held by the Human Resources Director with the employee so involved and his/her Department Head. The Human Resources Director may recommend disciplinary action including dismissal.

The Controller's Department will arrange for earnings withholding orders in accordance with the Wage Garnishment Law, California Code of Civil Procedure, Section 706.010-706.154, inclusive. No disciplinary action shall be taken against an employee concerning the attachment of wages for first occurrence but may be grounds for disciplinary action thereafter.

Section 2. "Gifts": It shall be considered against the principles of the City for any employee to accept any gift in any form from any person, firm, or corporation which to the knowledge of the officer or employee is interested directly or indirectly in any manner whatsoever in business dealings with the City.

Section 3. "Fitness For Duty": If the City has reason to believe that an employee is not fit to perform his/her normal job duties, the City may send the employee for a medical and/or psychological evaluation as may be applicable, the cost of which will be paid by the City.

Section 4. "Employee Information": Employees are required to keep their supervisor informed of the current address where they reside and telephone number where they can be contacted.

ARTICLE XIII. SEPARATION FROM THE SERVICE

Section 1. "Resignation": An employee wishing to leave the classified service in good standing shall file with the supervising official, at least one week before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager with a statement by the appointing authority or Department Head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure by the employee to comply with this rule may be cause for denying future employment by the City. A resignation accepted by the appointing authority is final and can be revoked upon the written approval of the appointing authority.

Section 2. "Reinstatement": With the approval of the appointing authority, a regular employee who has resigned with a good job performance record may be reinstated within one year to his/her former position, if vacant, or to a vacant position in the same or comparable class. An employee reinstated as provided in this paragraph shall not receive seniority credit for time worked for the City prior to resignation. An employee reinstated following a lay off under provisions of Article 805 of the City Charter shall receive seniority credit for time worked prior to the lay-off.

With the approval of the appointing authority and the City Manager, an employee who has been granted disability retirement as the result of an industrial accident may be reinstated to his/her former position, if vacant, or to a vacant position in the same or comparable class, provided that the person is able to pass an examination by physicians or psychologists, specified by the City, to determine physical, mental, or psychological capability of performing the duties and responsibilities of the classification to which he/she is being reinstated.

Medically retired employees may, with approval of the appointing authority and the City Manager, be reinstated to light duty status if it is determined on the basis of an evaluation by the City selected physician or psychologist, that return to full duty is possible within a reasonable period of time. Such evaluation shall state the physician's estimate of time required for return to full duty and any work restrictions.

All reinstatements must be in conformance with Article V, Section 4, Nepotism.

Any former employee reentering the City service by any method other than reemployment following lay off, reinstatement from disability retirement or in accordance with provisions of Section 395 of the Military and Veterans Code shall not receive seniority credit for any prior service.

Seniority credit as used in this Section shall be given consideration in the event of lay off and in the preparation of departmental vacation scheduled, but the right of the supervising official to determine the time at which an employee may take his/her vacation (See Article X, Section 6) shall not be abridged.

Section 3. "Suspension": Suspension shall be effected in accordance with Section 804 of the City Charter.

Section 4. "Discharge": A discharge shall be effected in accordance with Section 804 of the City Charter.

Section 5. "Lay Off": Lay off of employees may be accomplished in the interest of economy, efficiency, or because the necessity of the position no longer exists.

Definitions: For the purposes of this Section, unless the context clearly otherwise requires, the enumerated words and phrases shall be defined as follows:

- (a) "Abolition of Position" means the abolishment of a position of employment in accordance with Section 805 of the City Charter.*

- (b) "Demotion" means the demotion of an employee to a lesser position included within the same family of positions occasioned by a reduction in force.
- (c) "Employee" means any employee in the Classified Service of the City.
- (d) "Family of positions" means any job classification(s) that are substantially the equivalent to another job classification in the classified service assigned at the same or lower salary range.
- (e) "Length of Service" means the total number of years of an employee's employment by the City in the classified service including such time spent in a probationary and leave status by any such employee. If 2 or more employees have the same length of service, the employee(s) to be retained shall be determined by the department head, or if the employees are in more than one department, by the City Manager.
- (f) "Lesser position" means a position having a lower overall salary range than one or more other positions in a family of positions.
- (g) "Position" means a position of employment in the Classified Service.

Procedure: Whenever the City Council determines, in its discretion, that for reasons of economy or efficiency or because the necessity of the position no longer exists, a reduction in the number of employees of the City is required, the City Manager shall proceed with such a reduction in force by demotion, transfer and/or termination in accordance with the provisions hereof.** The City shall meet and confer on the impact of lay-offs with the exclusive representative pursuant to the Meyers-Milias-Brown Act.

Demotion:

(a) Voluntary Demotion: Where reduction in force involves a position that is included within a family of positions, each employee holding the position shall be ranked based upon his/her length of service with the City. If there is not a lesser position in the family of positions, the employee may be demoted to a position previously held in which he/she had regular status. Among the employees designated for the reduction in force, the employee or employees having the greatest length of service shall be first offered an opportunity to be voluntarily demoted to the next lower position within the family of positions.*** The City Manager shall give written notice of the demotion to each employee to be demoted. Such order of demotion shall be effective on the thirtieth (30th) day after the giving of the notice. If within ten (10) days after giving the notice, an employee files with the City Manager a written statement declining the demotion, that employee's employment with the City shall be terminated effective on the thirtieth (30th) day after the giving of the City's notice.

Request for Transfer: An employee subject to a reduction in force pursuant to this Section may request, subject to the approval of the City Manager, a transfer to a vacant position at the same or lower salary range as the vacated position in accordance with Article XI, Section 2 Transfer in these rules.

* The abolishment of any position or employment in the competitive (classified) service, thereby laying off employees, does not require the filing of written charges nor is there any right of appeal. (Whittier Municipal Code 2.24.120)

** Before any reduction in the work force of regular employees in a department, all temporary and probationary employees in the affected classifications or positions shall be laid off.

*** Employees who are voluntarily demoted to a lower classification shall serve a minimum six months' probationary period.

Positions Not Included Within a Family of Positions: An employee who is not eligible for voluntary demotion or transfer as provided in this Section shall be

considered for the City's Employee Retention/Cross Training Program or terminated from the City's employment, effective on the thirtieth (30th) day after the giving of notice of termination by the City Manager.

Salary Determination: An employee demoted pursuant to this Section shall be placed in the salary range of the position and at the step closest to the salary held in the former positions but not in excess thereof.

Displaced Employees: Employees who are displaced may voluntarily be demoted or request a transfer as set forth in this Section. An employee not demoted or transferred in accordance with this Section shall be terminated upon the thirtieth (30th) day after the giving of the City's notice thereof.

Reemployment List: An employee who is demoted or terminated by reason of a reduction in force accomplished pursuant to this Section shall have his/her name automatically placed on a reemployment list for the position which he/she formerly held. The ranking of names upon the reemployment list shall be in accordance with the employee's length of service with the City. The reemployment list shall have priority for a period of one (1) year over any other eligibility list for the affected position. If two or more employees have the same length of service, the employee(s) to be reemployed shall be determined by the department head, or if the employees were in more than one department, by the City Manager.

Section 6. "Retirement": There is no mandatory age requirement set for any employee to retire. At the discretion of the Human Resources Director, an employee may be required to submit to a physical examination in cases of uncertainty as to whether the employee can continue to perform and perform safely the duties of his/her position. Such examination shall be performed by a physician stipulated by the City and shall be at City expense.

ARTICLE XIV. GRIEVANCE PROCEDURE

Section 1. "Purpose": The purpose of this Article is to provide for an employee grievance, within the scope and framework of the existing Personnel System. For purposes of this Rule, the word "grievance" shall mean and include any violation of the City's Personnel Rules, Salary Resolution, Standard Operating Procedures, or applicable MOU that has adversely affected any individual employee, but shall not include any disciplinary action or proceeding or the content of a performance evaluation.

Section 2. "First Review Procedure": An employee believing that he/she has a grievance must present such to their immediate supervisor verbally for informal discussion within fifteen (15) working days from the occurrence of the act or omission, or within fifteen (15) working days from the time such employee knew or should have known of such act or omission.

The employee's immediate supervisor shall schedule a time for discussion of such grievance within five (5) working days from the time of notice by the employee. The supervisor shall respond to the employee within ten (10) working days from the date of their discussion.

Failure of the employee to notify his/her immediate supervisor within the fifteen (15) days shall make such grievance null and void. Failure of the supervisor to schedule a meeting with the employee within the five (5) days shall permit the employee to appeal to the next level of review.

Section 3. "Second Review Procedure": If the grievance is not resolved at the "First Review" the employee may submit a formal written grievance pursuant to the following guidelines:

- (a) The grievance must be in writing and contain a brief explanation of the act or omission, the specifics as to time, date, place, and other personnel involved where appropriate, the specific rule or provision violated, how

the employee has been adversely affected, and the solution the employee is asking for.

- (b) The grievance must be submitted within ten (10) working days from the date of the determination by the employee's immediate supervisor in the first review procedure.
- (c) The grievance must be addressed to the Department Head.

Failure of the employee to submit such written grievance within the ten (10) working days shall render the grievance null and void.

The Department Head shall, on receiving the written grievance, proceed to investigate the specifics of the alleged grievance, including meeting with the employee unless both the department head and employee mutually agree not to meet. After such investigation, the Department Head shall prepare a "Grievance Report" which shall summarize the findings of the investigation and render a decision based on the facts reviewed. Such decision shall be consistent with the City Charter, the Personnel Rules and Regulations, applicable Standard Operating Procedures, Departmental Rules, and any applicable Memoranda of Understanding.

The Department Head shall render such decision within fifteen (15) working days from receipt of the written grievance from the employee. If no such decision is made by the Department Head within the fifteen (15) working days specified, the employee may appeal to the next level of review without any further delay.

Section 4. "Third Review Procedure": An employee who is dissatisfied with the determination made by the Department Head, or who has not received a timely response from the Department Head, may appeal such determination to the City Manager. Such appeal must be made within ten (10) working days from date of receipt of the Department Head's determination. The employee shall include for the City Manager's review the specific reasons of dispute with respect to the determination of the Department Head. If the City Manager determines that a hearing is necessary, at least five (5) days notice shall be given to all parties. If a hearing is not conducted, the City Manager or designee will meet with the employee unless both the City Manager/designee and employee agree not to meet. In any case, the City Manager shall investigate the grievance and shall render a determination, in writing, within thirty (30) days from the date of receipt of the appeal from the employee.

Section 5. "Appeal to the Personnel Board": An employee who is dissatisfied with the determination of the City Manager in the third review procedure may appeal such determination to the Personnel Board within fifteen (15) days from the date of receiving such determination from the City Manager. The Secretary of the Board, upon receiving a timely appeal, shall place the matter on the next agenda of the Personnel Board, however, such time may not exceed thirty (30) days from the date of receiving said appeal. Notice of the time and place of the hearing on such matter by the Board shall be given to all parties at least fifteen (15) days in advance of any scheduled hearing.

Upon receiving such appeal, the Board shall consider the grievance, the grievance report, the determination of the City Manager, and the evidence submitted at the scheduled hearing. At the time of the hearing before the Board, all interested persons shall be given an opportunity to be heard. Upon conclusion of such hearing, the Board shall, in written form, determine whether or not the grievance, as presented, is meritorious, i.e., whether the employee's position is consistent with the Personnel Rules and Regulations, the City Charter, and all other valid administrative rules and Memoranda of Understanding. If the Board finds the grievance to be meritorious, it shall order such remedies as it deems proper which shall also be consistent with the Rules and Regulations, the Charter, and valid administrative rules and Memoranda of Understanding. On approval of such written findings by the Board, the Secretary shall serve on all parties copies of such findings, recommendations, and orders.

All such hearings, findings, recommendations, and orders shall be made by the Personnel Board within sixty (60) days from the date of the first scheduled hearing.

The findings of the Personnel Board shall be final and conclusive, except as provided in Section 6 "Review by the City Council" hereinafter.

Section 6. "Review by the City Council": The City Council, within thirty (30) days after the giving of notice by the Personnel Board's action, upon its own motion, upon request of the affected employee or the City Manager, by motion carried by not less than three (3) affirmative votes, may determine to review such matter. Where the City Council so determines, such review shall be based solely upon the Board's records and files, including summaries of testimony given. The City Council thereafter shall approve, disapprove, or approve with modification the decision rendered by the Personnel Board. The City Council's action shall be final and conclusive in all cases.

Section 7. "Notices": Notices pursuant to this Article shall be given either by personal service upon all parties to be notified, or by depositing in the United States Postal Service, postage prepaid, addressed to the last known address of each party. For the purpose of this Article, notice shall be deemed to have been given as of the date of such personal service or as of the date of deposit of such notice in the course of transmission of said United States Postal Service.

Section 8. "General":

- (a) All determinations, decisions, findings, and orders shall be final at the level of review which rendered unless timely appeal is made by the affected employee.
- (b) All time limits specified in all provisions herein may be extended by mutual consent of all parties.
- (c) The employee may have a representative of their choosing commencing with the second review procedure.
- (d) A "working day" shall be defined as a normal scheduled day of work, excluding all overtime or special assignment, for the affected employee filing such grievance.
- (e) The decisions, determinations, recommendations, and orders issued pursuant to the provisions of this Article shall be consistent in all ways with the City Charter, valid Personnel Rules and Regulations, valid Memoranda of Understanding, and valid Administrative Rules in current force and effect at the time of the alleged grievance.

ARTICLE XV. PERFORMANCE EVALUATION

Section 1. "Import of Evaluation of Performance": Employee performance evaluation will establish a basis for making appraisal for recommendations concerning action to be taken regarding competence, making better use of skills and knowledge, determination of promotion factors and salary increases, and discharging incompetent employees.

Section 2. "Forms": The Employee Performance Evaluation form is structured so that it may be used for most evaluation needs. At the time an employee is to be removed from probation, a performance evaluation must be completed. A performance evaluation is required for all employees at least on an annual basis. At the prerogative of the Department Head, periodic performance evaluations may be made semi-annually, or more frequently as appropriate.

Section 3. "Procedures":

- (a) Each Department Head shall survey the employees in his/her department and note who is due for evaluation by reason of length of service in their present class and step.
- (b) The Department Head will determine who is to conduct the evaluation, either the employee's supervisor or the Department Head him/herself.
- (c) If the Department Head is going to recommend a multi-step salary increase for an employee, the Department Head must discuss the recommendation with the Human Resources Director prior to discussing the recommendation with the employee.

After the evaluation process is fully completed and duly signed by the rater, the employee and the Department Head, it is to be submitted to the Human Resources Director and City Manager for their review.

- (d) After the evaluation form is reviewed by the aforementioned parties, distribution of copies shall include the Human Resources Department Employee File, appropriate Department File and employee being evaluated.
- (e) If action is deemed in order, then the Personnel Action Form will be completed by the Department Head and submitted for approval as in any other change of employee status.

Section 4. "Evaluation Meeting": No evaluation shall be placed in the employee's personnel file without an opportunity for discussion between the employee and the evaluator. It is the responsibility of the rater to insure that the employee knows and understands in advance what the rating is for, and what is being considered in the rating. The employee should be asked to sign the rating form after he/she fully understands the rating given. The employee's signature does not necessarily mean that he/she concurs with the rating. However, in the event of an exception to the rating, every attempt should be made to resolve it in conference, including the Department Head, the rater and the employee.

Section 5. "Employee Response": Employees other than public safety officers have thirty (30) days after the evaluation meeting to file a written response to his/her evaluation. Such response shall be attached to the evaluation form prior to placement in his/her personnel file. Public Safety Officers shall have those rights provided to them pursuant to California Government Code Sections 3305 and 3306.

Section 6. "General": The substance of any evaluation, including the observations, opinions and conclusions of the evaluator, shall not be subject to the grievance procedure.

ARTICLE XVI. TRAINING OF EMPLOYEES

Section 1. "Responsibility for Training": Responsibility for developing training programs for employees shall be assumed jointly by the City Council, the City Manager, the Human Resources Director, and the Department Heads. Such training programs may include lecture courses, demonstrations, attendance at conventions, assignment of reading matter, or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of municipal officers and employees in the performance of their respective duties.

ARTICLE XVII. REPORTS AND RECORDS

Section 1. "Service Record": The City Controller shall maintain a service record card for each employee in the service of the City showing the name, title of position held,

the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.

Section 2. "Change of Status Report": Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of employees shall be reported, through the Human Resources Director, to the City Controller in such a manner as may be prescribed in these rules and regulations. All public or private inquiries regarding the above shall be directed to the City Controller's Department.

Section 3. "Forms": The City may create forms and require their completion by employees for administration of the City's personnel rules and regulations.

DEFINITION OF TERMS

"Advancement": A salary increase within the limits of the pay range established for a class.

"Allocation": The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibilities exercised.

"Appeal": Any written request for relief filed with the Human Resources Director for presentation to the Personnel Board.

"Applicant": A person who has made an application for a position.

"Appointment": The offer to and acceptance by a person of a position in the City.

"Appointing Authority or Power": The officers of the City who, in their individual capacity, or as a Board, Commission, or City Council, have the final authority to make the appointment to the position to be filled.

"Break in Service": Resignation to leave the classified service, failure to report for duty, and discharge for cause shall be considered to be a break in service. Leaves of absence, suspension, and technical termination to accept another position in the classified service shall not be considered a break.

"City": When used alone means the City of Whittier.

"City Charter": The City Charter of the City of Whittier.

"City Manager": The City Manager of the City of Whittier.

"Class": All positions sufficiently similar in duties, authority, responsibilities and working conditions to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion and salary.

"Class Specifications": The statement of the essential facts which identify one class from all other classes. The essential parts of this statement are: the title, the statement of duties and responsibilities, examples of work performed, and the statement of minimum qualifications.

"Classified Service": The positions and employment occupied by employees which are included or which may hereafter be included, under the Civil Service System of the City of Whittier.

"Days": Any reference to days in these Rules shall refer to calendar days unless otherwise specified to the contrary.

"Demotion": A change in employment status from one position to another, having a lower maximum rate of pay, or a change in duties which are allocable to a class having a lower maximum rate of pay.

"Dismissal": The involuntary and permanent separation for cause of an employee from his/her position and the service.

"Eligible": A person who legally may be appointed to a vacant position in the classified service as provided by these rules.

"Eligible List": A list of names of persons who have taken the test for a position in the classified service and passed, and are ranked on the list in the order of the score received.

"Emergency Appointment": An appointment made in the absence of an appropriate eligible list in an emergency situation to prevent the stoppage of public business.

"Emergency Employee": An employee holding a position under emergency appointment.

"Employee": A person legally occupying a position in the classified service with the City.

"Fair Labor Standards Act (FLSA)": For the purpose of compensating employees for overtime and in consideration of the factors impacting overtime and compensatory time accrual, including but not limited to number of hours worked, regular rate of pay, and exempt positions, provisions of the FLSA shall be applied.

"Lateral Transfer": A change of an employee from one position to another position in the same class or another class having essentially the same maximum salary limits, involving the performance of similar duties and requiring substantially the same basic qualifications. May be from one department to another department. An employee transferring laterally within the City to a classified position, who has previously passed probation for the same or comparable class, shall not be subject to a probationary period.

"Lay Off": The separation of an employee because of the abolition of a position as provided in Section 805 of the City Charter.

"Medical Examiner": A medical doctor or psychologist designated by the City Manager or designee to give and evaluate medical and psychological examinations.

"Off-Shift Employee": An employee who works other than the hours of work as defined in Article X, Section 1.

"Personnel Board": The Personnel Board of the City of Whittier.

"Position": A group of current duties, tasks and responsibilities assigned or delegated by competent authority, requiring the full time or part time service of one person.

"Probationary Period": A working test period during which an employee is required to demonstrate his/her fitness for the duties to which he/she is appointed by actual performance of the duties of the position.

"Probationary Status": The status of an employee who has been certified and appointed from an eligible list or a promotional list in the classified service, but who has not completed the probationary period provided by these rules.

"Promotion": A change in employment status from one position to another which is allocated to a class with a higher maximum rate of pay.

"Promotional Eligible List": A list of persons who have been examined in a promotional examination and are eligible for certification for a class, ranked on the list in the order of the score received.

"Promotional Examination": An examination for positions in a class, admission to the examination being limited to regular employees in the classified service who

appear to meet the minimum qualifications of the position to which application has been made.

"Reduction": A salary decrease within the limits of the pay range established for a class.

"Reemployment List": A list of persons laid off in the reverse order in which they were laid off.

"Regular Appointment": An appointment from an eligible list in proper certification order; an appointment to the classified service which is not provisional or emergency.

"Regular Employee": An employee in the classified service who has regular status.

"Regular Shift Employee": An employee covered by Article X, Section 1.

"Regular Position": A position in the classified service.

"Regular Status": The status of an employee in the classified service who has successfully completed the probationary period as provided under these rules.

"Rejection": The separation of an employee from the service during his/her probationary period.

"Request for Certification": A communication from the appointing authority to the Human Resources Director requesting that eligibles be certified for consideration for appointment.

"Roster": The official record of all employees in the service, including the name, title and employment record.

"Rules": When used alone, means the Personnel Rules and Regulations of the City of Whittier.

"Shall": "Shall" is mandatory and "May" is permissive.

"Suspension": The temporary separation from the service of an employee without pay for disciplinary purposes.

"Vacancy": An authorized opening in a position in the service.