

## CHARTER OF THE CITY OF WHITTIER

### Sections:

We, the People of the City of Whittier, State of California, do ordain and establish this charter as the organic law of the City under the Constitution of the State.

## ARTICLE I. - INCORPORATION AND SUCCESSION

### SECTION 100. - Name and Boundaries.

The City of Whittier, hereinafter termed the City, shall continue to be a municipal corporation under its present name of "City of Whittier." The boundaries of the City shall be the boundaries as established at the time this charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

### SECTION 101. - Succession; Rights and Liabilities.

The City of Whittier shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this charter takes effect and shall continue to be subject to all its debts, obligations, liabilities and contracts.

### SECTION 102. - Ordinances.

All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this charter takes effect, and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

### SECTION 103. - Continuance of Present Officers and Employees.

The present officers and employees shall continue to perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the appointment, or election and qualification of their successors, but subject to the provisions of this charter.

### SECTION 104. - Effective Date of Charter.

This charter shall take effect upon its approval by the legislature.

## ARTICLE II. - POWERS OF CITY

## SECTION 200. - Powers.

The city shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this charter and in the Constitution of the State of California. It shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, heretofore or hereafter established, granted or prescribed by any law of the state, by this charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

## ARTICLE III. - FORM OF GOVERNMENT

### SECTION 300. - Form of Government.

The municipal government established by this charter shall be known as the "council-manager" form of government.

## ARTICLE IV. - CITY COUNCIL

### SECTION 400. - Elective Officers.

- A. Officers. The elective officers of the city shall constitute a council consisting of a mayor directly elected by the voters city-wide to serve a two year term, until his/her respective successor qualifies, and a city council of four additional members elected by district at the times and in the manner provided in this charter, each of whom shall serve for a term of four years and until their respective successors qualify.
- B. Council Districts. The city is hereby divided into four (4) council districts, to be determined by the city council in any manner provided by law. Candidates for council seats other than the mayor shall be nominated and elected by such district and shall be residents of such district.
- C. Changes in Boundaries of Council Districts. The boundaries of said council districts, but not the number thereof, may be changed by ordinance adopted by the council by a three-fifths ( $\frac{3}{5}$ ) vote of all its members; provided, that districts established by the council shall be as nearly equal in population and as geographically compact as practical. Boundaries shall be evaluated

within at least one (1) year subsequent to the availability of the information from each decennial United States census or on another basis adopted by three-fifths (3/5) vote of the total membership of the council; however, the council shall not change the boundaries of districts more than once in any two-year period and no such change shall be made within the period of one hundred eighty (180) days preceding a general municipal election. The preceding limitations shall not apply to changes made necessary by changes to the city boundaries. After the council has once exercised its power to change the boundaries of districts, these changes shall immediately be reflected in the district boundaries specified by ordinance adopted by the council.

- D. Residency in Districts. The elected mayor may reside within any council district of the city. Each member of the council, excluding the mayor, must also be a resident of the council district from which the member is nominated at the times the member is nominated and elected. In the event any member of the council shall cease to be a resident of the district from which the member (or, in the case of an appointee, a predecessor) was nominated, the office shall immediately become vacant and shall be filled in the same manner as herein provided for other vacancies. If a member of the council ceases to be a resident of the district from which the member (or, in the case of an appointee, a predecessor) was nominated solely because of a change in the boundaries of any district as in this Charter provided, the member shall not lose office during that term by reason of such change.
- E. Current Office Holders. The five members of the city council in office at the time this section takes effect shall continue in office until their terms expire.
- F. Council Elections Sequenced. The Mayor shall serve a two year term and the position of Mayor shall be elected commencing in the year 2016, and every two years thereafter. The members of the council of the first and third council districts shall be elected commencing in the year 2016 to the council seats then open, and in each fourth year thereafter. The members of the council of the second and fourth council districts shall be elected commencing in the year 2018 to the council seats then open, and in each fourth year thereafter.
- G. Commencement of Terms of Office. The term of each member of the city council shall commence on the first Tuesday following his/her election. Ties in voting among candidates for office shall be settled by the casting of lots.

(Ord. No. 3011, § 1, 7-8-14; Ord. No. 3112, § 2, 2-25-20)

#### SECTION 401. - Eligibility.

No person shall be eligible to hold an elective office unless he/she is, and shall have been for at least three years immediately preceding his/her election or appointment, a qualified elector of the city, or of

territory annexed thereto. <sup>[1]</sup>

(Memo of 6-22-15; Ord. No. 3112, § 2, 2-25-20)

*Footnotes:*

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**Note**— *Residency provision is not enforced prior to election or appointment as it conflicts with the state constitution. Provision is applicable beginning at the time of nomination for election or candidacy for appointment.*

#### SECTION 402. - Compensation.

The members of the city council shall receive no compensation for their services as such, but shall receive reimbursement on order of the city council for council authorized traveling and other expenses when on official duty. In addition, members shall receive such fixed and equal amount as may be established by ordinance, which amount shall be deemed to be reimbursement of other out-of-pocket expenditures and costs imposed upon them in serving as city council members.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 403. - Vacancies.

A vacancy in the city council, from whatever cause arising, shall be filled by appointment by the city council, such appointee to hold office until the first Tuesday following the next general municipal election and until his/her successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term. As used in this paragraph, the next general municipal election shall mean the next such election at which it is possible to place the matter on the ballot and elect a successor.

If a member of the city council absents himself/herself from all regular meetings of the city council for a period of sixty days consecutively from and after the last regular city council meeting attended by such member, unless by permission of the city council expressed in its official minutes, or is convicted of a crime involving moral turpitude, his/her office shall become vacant. The city council shall declare the existence of any such vacancy.

In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the city council shall cause an election to be held forthwith to fill such vacancy for the remainder of the unexpired term.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 404. - The Mayor; Mayor Pro Tempore.

- A. Mayor. One of the three council seats open at the first municipal election following the date on which this section takes effect shall be designated as the office of mayor, to be filled at the election. The person elected at the election as mayor shall hold office from the Tuesday succeeding his/her election, and until his/her successor is elected and qualifies. Candidates for mayor may reside in any council district of the city, and all qualified voters of the city shall be able to vote for the office of mayor. The elected mayor is a member of the city council and has all the powers and duties of a member of the city council.

The mayor may make and second motions and shall have a voice and vote in all its proceedings. He/she shall be the official head of the city for all ceremonial purposes. He/she shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the city government to the people, and, as occasion requires, he/she may inform the people of any major change in policy or program. He/she shall perform such other duties consistent with the office as may be prescribed by this charter or as may be imposed by the city council.

- B. Mayor Pro Tem. On the first Tuesday following any general or special municipal election at which any council member is elected, the city council shall meet and shall elect one of its members as mayor pro tempore, who shall serve in such capacity at the pleasure of the city council. The mayor pro tempore shall perform the duties of the mayor during his/her absence or disability.

(Ord. No. 3011, § 2, 7-8-14; Ord. No. 3112, § 2, 2-25-20)

#### SECTION 405. - Powers Vested in the City Council.

All powers of the city shall be vested in the city council except as otherwise provided in this charter.

#### SECTION 406. - Interference in Administrative Service.

Except as otherwise provided in this charter, neither the city council nor any of its members shall interfere with the execution by the city manager of his/her powers and duties, or order, directly or indirectly, the appointment by the city manager or by any of the department heads in the administrative service of the city, of any person to an office or employment or his/her removal therefrom. Except for the purpose of inquiry, the city council and its members shall deal with the administrative service under the city manager solely through the city manager and neither the city council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 407. - Regular Meetings.

The city council shall hold regular meetings at least twice each month at such times as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

#### SECTION 408. - Special Meetings.

Special meetings may be called at any time by the mayor, or by three members of the city council, by written notice delivered personally to each member at least twenty-four hours before the time specified for the proposed meeting. A special meeting may also be validly held without the giving of such written notice, if required to be held by this charter or if all members shall give their consent, in writing, to the holding of such meeting and such consent is on file in the office of the city clerk at the time of such meeting. A telegraphic communication from a member consenting to the holding of a meeting shall be considered a consent in writing. At any special meeting only such matters may be acted upon as are referred to in such written notice or consent.

#### SECTION 409. - Place of Meetings.

All meetings shall be held in the council chambers of the city hall, or in such place to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the mayor, or, if he/she should fail to act, by three members of the city council.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 410. - Quorum; Proceedings.

A majority of the members of the city council shall constitute a quorum to do business but a less number may adjourn from time to time. In the absence of all the members of the city council from any regular meeting or adjourned regular meeting, the city clerk may declare the same adjourned to a stated day and hour. Notice of a meeting adjourned by less than a quorum or by the clerk shall be given by the clerk or may be waived by consent in the same manner as specified in this charter for the giving or waiving of notice of special meetings of the city council, but need not specify the matters to be acted upon. The city council shall judge the qualifications of its members as set forth by the charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute

any member or other person for disorderly conduct at any of its meetings.

Each member of the city council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the city council. The city council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the city and be attested by the city clerk, disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this charter are punishable.

At the demand of any member, and upon the adoption of any ordinance, resolution, or order for the payment of money, the city clerk shall call the roll and shall cause the ayes and noes taken on such questions to be entered in the minutes of the meeting.

#### SECTION 411. - Citizen Participation.

No person shall be denied the right, personally or through counsel, to present grievances at any regular meeting of the council, or offer suggestions for the betterment of municipal affairs.

#### SECTION 412. - Adoption of Ordinances and Resolutions.

With the sole exception of ordinances which take effect upon adoption, referred to in this article, no ordinance shall be adopted by the city council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the city clerk. At the time of adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the council members present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

Unless a higher vote is required by other provisions of this charter, the affirmative votes of at least three members of the city council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money. All ordinances and resolutions shall be signed by the mayor and attested by the city clerk.

Any ordinance declared by the city council to be necessary as an emergency measure for preserving

the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least four affirmative votes.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 413. - Ordinances; Publication.

The city clerk shall cause each ordinance to be published at least once in the official newspaper within fifteen days after its adoption.

#### SECTION 414. - Codification of Ordinances.

Any or all ordinances of the city which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the city clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Amendments to the code shall be enacted in the same manner as ordinances.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this section. Maps, charts and diagrams also may be adopted by reference in the same manner.

#### SECTION 415. - Ordinances; When Effective.

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An improvement proceeding ordinance adopted under some laws or procedural ordinance.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.
- (d) An emergency ordinance adopted in the manner provided for in this article.

#### SECTION 416. - Ordinances; Violation; Penalty.

A violation of any ordinance of the city shall constitute a misdemeanor and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. The maximum fine or



penalty for any violation of a city ordinance shall be the sum of five hundred dollars, or a term of imprisonment for a period not exceeding six months, or both such fine and imprisonment. The city council may provide by ordinance that persons imprisoned in the city jail for violation of law or ordinance may be compelled to labor on public works.

#### SECTION 417. - Publishing of Legal Notices.

In the event that there is more than one newspaper of general circulation published and circulated in the city, the city council, annually, prior to the beginning of each fiscal year, shall publish a notice inviting bids and contract for the publication of all legal notices or other matter required to be published in a newspaper of general circulation in said city, during the ensuing fiscal year. In the event there is only one newspaper of general circulation published and circulated in the city, then the city council shall have the power to contract with such newspaper for the printing and publishing of such legal notices or matter without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be designated the official newspaper for the publication of such notices or other matter for the period of such contract.

In no case shall the contract prices for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character.

In the event there is no newspaper of general circulation published and circulated in the city, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the city.

No defect or irregularity in proceedings taken under this section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this charter or law or ordinance.

#### SECTION 418. - Contracts; Restrictions.

The city council shall not have the power to make or authorize any contract or lease or extension thereof for a longer period than twenty-five years unless said contract, lease or extension be approved by a majority of those qualified electors of the city voting on such question at any election. A contract, lease or extension for a longer period shall be valid without such approval if it provides for the acquisition by the city at the end of such period of the real or personal property so leased or contracted for. This section shall not apply to any franchise granted pursuant to the provisions of this charter or to any contract for the furnishing or acquisition of the products, commodity or services of any public utility.

#### SECTION 419. - Contracts; Execution.

The city shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the city council and signed on behalf of the city by the mayor and city clerk or by such other officer or officers as shall be designated by the city council. Any of said officers shall sign a contract on behalf of the city when directed to do so by the city council.

By ordinance or resolution the city council may authorize the city manager to bind the city, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the city council, and may impose a monetary limit upon such authority.

The city council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the city service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the city may be made by the manager of such utility or by the head of the department or city manager upon forms approved by the city manager and at rates fixed by the city council.

The provisions of this section shall not apply to services rendered by any person in the employ of the city at a regular salary.

## ARTICLE V. - CITY MANAGER

### SECTION 500. - City Manager.

There shall be a city manager who shall be the chief administrative officer of the city. In the election of a city manager the city council shall screen all qualified applicants and other qualified persons known by the council to be available. It shall appoint, by a majority vote, the person that it believes to be best qualified on the basis of his/her executive and administrative qualifications, with special reference to his/her experience in, and his/her knowledge of, accepted practice in respect to the duties of the office as set forth in this charter. The city manager shall serve at the pleasure of the city council.

(Ord. No. 3112, § 2, 2-25-20)

### SECTION 501. - Residence.

The city manager need not be a resident of the city at the time of his/her appointment, but he/she shall establish his/her residence within the city within ninety days after his/her appointment, unless such period is extended by the city council, and thereafter maintain his/her residence within the city during

his/her tenure of office. <sup>[2]</sup>

(Memo of 6-22-15; Ord. No. 3112, § 2, 2-25-20)

*Footnotes:*

--- (2) ---

**Note**— *Residency provision is not enforced as it conflicts with state law.*

#### SECTION 502. - Eligibility.

No person shall be eligible to receive appointment as city manager while serving as a member of the city council nor within three years after he/she has ceased to be a city council member.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 503. - Compensation and Bond.

The city manager shall be paid a salary commensurate with his/her responsibilities as chief administrative officer of the city, which salary shall be established by ordinance or resolution. The city manager shall be entitled as a minimum compensation to six months salary commencing with the first day of his/her employment notwithstanding his/her removal by the city council within said six months period, unless he/she shall die, resign, or be convicted of a crime involving moral turpitude, in which event his/her compensation shall cease at the conclusion of his/her service.

The city manager shall furnish a corporate surety bond conditioned upon the faithful performance of his/her duties in such form and in such amount as may be determined by the city council.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 504. - City Manager; Powers and Duties.

The city manager shall be the head of the administrative branch of the city government. He/she shall be responsible to the city council for, and shall have jurisdiction over, the proper administration of all affairs of the city except those delegated by this charter to the city attorney or to the board of hospital trustees. <sup>[3]</sup> Without limiting the foregoing general grant of powers, responsibilities and duties, the city manager shall have power and be required to:

- (a) Appoint, and he/she may suspend or remove, subject to the provisions of the charter including the civil service system provisions thereof, all department heads and officers of the city except elective officers and those department heads and officers the power of whose appointment is vested by this charter in the city council or in the board of hospital trustees; provided, however, that the appointment, removal and suspension of the

librarian, the city clerk, the controller and the treasurer shall be subject to the approval of the city council, and the appointment (but not the suspension or removal) of other department heads by the city manager shall be subject to the approval of the city council; and approve or disapprove all proposed appointments and removals of subordinate employees by those department heads who are appointed by the city manager.

- (b) Prepare the budget annually, submit such budget to the city council and be responsible for its administration after its adoption.
- (c) Prepare and submit to the city council as of the end of the fiscal year a comprehensive report on the finances and administrative activities of the city for the preceding fiscal year.
- (d) Keep the city council advised of the financial condition and future needs of the city and make such recommendations as may seem to him/her desirable.
- (e) Prepare rules and regulations governing the contracting for, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the city government and recommend them to the city council for adoption by it.
- (f) See that the laws of the state pertaining to the city, the provisions of this charter and the ordinances of the city are enforced.
- (g) Prescribe such general rules and regulations as he/she may deem necessary or proper for the general conduct of the administrative offices and departments of the city under his/her jurisdiction, and exercise control of all such administrative offices and departments and the officers and employees thereof.
- (h) Perform such other duties consistent with this charter as may be required of him/her by the city council.

(Memo of 6-22-15; Ord. No. 3112, § 2, 2-25-20)

*Footnotes:*

--- (3) ---

**Note—** *The City no longer operates a hospital.*

## SECTION 505. - Meetings.

The city manager shall be accorded a seat at the city council table and at all meetings of boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote.

## SECTION 506. - Removal.

The city manager shall not be removed from office during or within a period of ninety days next

succeeding any municipal election at which a member of the city council is elected. At any other time the city manager may be removed only at a regular meeting of the city council and upon the affirmative votes of at least three members of the city council. At least thirty days prior to the effective date of his/her removal, the city manager shall be furnished with a written notice stating the council's intention to remove him/her and the reasons therefor. Within seven days after receipt of such notice, the city manager may by written notification to the city clerk request a public hearing before the city council, in which event the council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty-day period above referred to. The city manager shall appear and be heard at such hearing. After furnishing the city manager with written notice of his/her intended removal, the city council may suspend him/her from duty, but his/her compensation shall continue until his/her removal as herein provided. In removing the city manager, the city council shall use its uncontrolled discretion, and its actions shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the city council and the city manager to present to each other and to the public all pertinent facts prior to the final action of removal.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 507. - Manager Pro Tempore.

The city manager may appoint, subject to the approval of the city council, one of the officers or department heads of the city, or any other qualified person, to serve as manager pro tempore during the temporary absence or disability of the city manager. In the event of the death, resignation or dismissal of the city manager, the city council may appoint any qualified person to act as city manager pro tempore pending the appointment of a new city manager.

#### ARTICLE VI. - OFFICERS AND EMPLOYEES

##### SECTION 600. - Officers To Be Appointed by the City Council.

In addition to the city manager, there shall be a city attorney who shall be appointed by and serve at the pleasure of the city council.

##### SECTION 601. - Administrative Departments.

The city council may provide, by ordinance not inconsistent with this charter, for the organization, conduct and operation of the several offices and departments of the city as established by this charter, for the creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition. Each new department created by the city council shall be headed by an officer as

department head who shall be appointed and may be suspended or removed by the city manager.

The city council, by ordinance or resolution, may assign additional functions or duties to offices, departments or agencies not inconsistent with this charter. Where the positions are not incompatible, the city council may combine in one person the powers and duties of two or more offices created or authorized by this charter. No office provided in this charter to be filled by appointment by the city manager may be consolidated with an office to be filled by direct appointment by the city council. The city council shall provide for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

#### SECTION 602. - City Attorney; Powers and Duties.

To become and remain eligible for city attorney the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least five years prior to his/her appointment. The city attorney shall have power and may be required to:

- (a) Represent and advise the city council and all city officers in all matters of law pertaining to their offices.
- (b) Represent and appear for the city in any or all actions or proceedings in which the city is concerned or is a party, and represent and appear for any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of his/her employment or by reason of his/her official capacity.
- (c) Attend all regular meetings of the city council and give his/her advice or opinion in writing whenever requested to do so by the city council or by any of the boards or officers of the city.
- (d) Approve the form of all contracts made by and all bonds given to the city, endorsing his/her approval thereon in writing.
- (e) Prepare any and all proposed ordinances and resolutions for the city and amendments thereto.
- (f) Surrender to his/her successor all books, papers, files and documents pertaining to the city's affairs.

The city council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the city attorney herein.

(Ord. No. 3112, § 2, 2-25-20)

## SECTION 603. - City Clerk; Powers and Duties.

There shall be a city clerk whose appointment, suspension or removal by the city manager shall be subject to the approval of the city council and who shall have power and shall be required to:

- (a) Attend all meetings of the city council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the city council in books that shall bear appropriate titles and be devoted to such purpose.
- (b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this charter, keep all books properly indexed and open to public inspection when not in actual use.
- (c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.
- (d) Be the custodian of the seal of the city.
- (e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the city and certify copies of official records.
- (f) Be ex-officio assessor, unless the city council has availed itself, or does in the future avail itself, of the provisions of the general laws of the state relative to the assessment of property and the collection of city taxes by county officers, or unless the city council by ordinance provides otherwise.
- (g) Have charge of all city elections.
- (h) Perform such other duties consistent with this charter as may be required of him/her by the city council.

(Ord. No. 3112, § 2, 2-25-20)

## SECTION 604. - Controller.

There shall be a controller whose appointment, suspension or removal by the city manager shall be subject to the approval of the city council, and who shall have power and shall be required to:

- (a) Have charge of the administration of the financial affairs of the city under the direction of the city manager.
- (b) Compile the budget expense and income estimates for the city manager.
- (c) Maintain a general accounting system for the city government and each of its offices, departments and agencies.

- (d) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded, audit all purchase orders before issuance; audit and approve before payment, all bills, invoices, payrolls, demands or charges against the city government and, with the advice of the city attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.
- (e) Submit to the city council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city; and, as of the end of each fiscal year, submit a complete financial statement and report.
- (f) Supervise the keeping of current inventories of all property of the city by all city departments, offices and agencies.
- (g) Perform such other duties consistent with this charter as may be required of him/her by the city council.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 605. - Treasurer.

There shall be a treasurer whose appointment, suspension or removal by the city manager shall be subject to the approval of the city council, and who shall have power and shall be required to:

- (a) Receive all taxes, assessments, license fees and other revenues of the city, or for whose collection the city is responsible, and receive all taxes or other money receivable by the city from the county, state or federal government, or from any court, or from any office, department or agency of the city.
- (b) Have custody of all public funds belonging to or under control of the city or any office, department or agency of the city government and deposit all funds coming into his/her hands in such depository as may be designated by resolution of the city council, or, if no such resolution be adopted, then in such depository designated in writing by the city manager, and in compliance with all of the provisions of the state constitution and laws of the state governing the handling, depositing and securing of public funds.
- (c) Disburse moneys on demands audited in the manner provided for in this charter.
- (d) Prepare and submit to the controller monthly written reports of all receipts, disbursements and fund balances, copies of which reports shall be filed with the city manager.
- (e) Perform such other duties consistent with this charter as may be required of him/her by the city council.



(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 606. - Administering Oaths.

Each department head and his/her deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his/her department.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 607. - Department Heads; Appointment Powers.

Each department head and appointive officer shall have the power to appoint, suspend or remove such deputies, assistants, subordinates and employees as are provided for by the city council for his/her department or office, subject to the provisions of this charter and of any civil service system adopted hereunder. Any such appointment or removal by a department head appointed by the city manager shall be subject to approval of the city manager.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 608. - Illegal Contracts; Financial Interest

No member of the city council, department head or other officer of the city (except a member of any board or commission), shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the city is a party.

No member of any board or commission shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the city is a party and which comes before the board or commission of which such person is a member for approval or other official action or which pertains to the department, office or agency of the city with which such board or commission is connected.

Any contract, sale or transaction in which there shall be such an interest, as specified in this section, shall become void at the election of the city when so declared by resolution of the city council.

No member of the city council, department head or other officer of the city, or member of any board or commission shall be deemed to be financially interested, within the meaning of the foregoing provisions, in any contract made with a corporation where his/her only interest in the corporation is that of a stockholder and the stock owned by him/her shall amount to less than three per cent of all the stock of such corporation issued and outstanding.

If any member of the city council, department head or other officer of the city, or member of a board or commission shall be financially interested as aforesaid, upon conviction thereof he/she shall forfeit his/her office in addition to any other penalty which may be imposed for such violation of this charter.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 609. - Acceptance of Other Office.

Any elective officer of the city who shall accept or retain any other elective public office shall be deemed thereby to have vacated his/her office under the city government.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 610. - Nepotism.

The city council shall not appoint to a salaried position under the city government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such city council, nor shall any department head or other officer having appointive power appoint any relative of his/her within such degree to any such position.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 611. - Official Bonds.

The city council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the city attorney, and shall be filed with the city clerk. Premiums on official bonds shall be paid by the city.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his/her bond, for any wrongful act or omission of his/her subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

(Ord. No. 3112, § 2, 2-25-20)

#### ARTICLE VII. - APPOINTIVE BOARDS AND COMMISSIONS

#### SECTION 700. - In General.

There shall be the following enumerated boards and commissions which shall have the powers and duties herein stated. In addition, the city council may create by ordinance such additional advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this charter.

#### SECTION 701. - Appropriations.

The city council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions.

#### SECTION 702. - Appointments; Terms.

The members of each of such boards or commissions shall be appointed by the city council from the qualified electors of the city, none of whom shall hold any paid office or employment in the city government. They shall be subject to removal by motion of the city council adopted by at least three affirmative votes. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified.

The members first appointed to such boards and commissions shall so classify themselves by lot that the term of one of each of their number shall expire each succeeding July first. Where the total number of the members of a board or commission to be appointed exceeds four, the classification by lot shall provide for the pairing of terms to such an extent as is necessary in order that the terms of at least one and not more than two shall expire in each succeeding year. Thereafter any appointment to fill an unexpired term shall be for such unexpired period.

#### SECTION 703. - Existing Boards.

The respective terms of office of all members of the boards and commissions in existence at the time this charter takes effect shall terminate upon the effective date of this charter. The present members of the boards and commissions which will continue in effect under this charter shall be deemed reappointed to the respective boards and commissions of which they are members as first appointed members thereof under this charter.

#### SECTION 704. - Meetings; Chairperson.

As soon as practicable, following the first day of July of every year, each of such boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings at least once each month and such special meetings as such board or commission may require. All proceedings shall be open to the public.

Except as may be otherwise provided in this charter, the city manager shall designate a secretary for the recording of minutes for each of such boards and commissioners, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with this charter and copies of which shall be kept on file in the office of the city

clerk where they shall be available for public inspection. Each board or commission shall have the same power as the city council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations.

SECTION 705. - Compensation; Vacancies.

The members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the city council.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the city council. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself/herself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of the city, his/her office shall become vacant and shall be so declared by the city council.

(Ord. No. 3112, § 2, 2-25-20)

SECTION 706. - Planning Commission; Members.

There shall be a planning commission consisting of five members. The city engineer and city attorney, or their assistants, shall meet with and participate in the discussions of the planning commission but shall not have a vote. <sup>[4]</sup>

(Memo of 6-22-15)

*Footnotes:*

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**Note—** *The director of community development now meets with and participates in discussions of the planning commission, in addition to the city engineer and city attorney or their functional equivalents on an as-needed basis.*

SECTION 707. - Planning Commission; Powers and Duties.

The planning commission shall have the power and be required to:

- (a) After a public hearing thereon, recommend to the city council the adoption, amendment or repeal of a master plan, or any part thereof, for the physical development of the city.
- (b) Exercise such control over land subdivisions as is granted to it by ordinance not inconsistent with the provisions of this charter.

- (c) Make recommendations to the city council concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the city.
- (d) Exercise such functions with respect to zoning and land use as may be prescribed by ordinance not inconsistent with the provisions of this charter.

SECTION 708. - Personnel Board.

The personnel board shall consist of five members, none of whom while a member of the board, or for a period of one year after he/she has ceased for any reason to be a member, shall be eligible for appointment to any salaried office or employment in the service of the city.

(Ord. No. 3112, § 2, 2-25-20)

SECTION 709. - Personnel Board; Powers and Duties.

The personnel board shall have the power and duty to:

- (a) Recommend to the city council, after a public hearing thereon, the adoption, amendment or repeal of personnel rules and regulations.
- (b) Act in an advisory capacity to the city council on problems concerning personnel administration
- (c) Hear grievances of any person in the city employment relative to any suspension, demotion or dismissal and make findings and recommendations thereon which shall be advisory only.
- (d) Make an investigation which it may consider desirable concerning conditions of employment or the administration of personnel in the municipal service and report its findings to the city council and city manager.
- (e) Perform such other duties not inconsistent with this charter as may be prescribed by ordinance.

SECTION 710. - Board of Library Trustees; Powers and Duties.

There shall be a board of library trustees consisting of five members which shall have the power, authority and duty to:

- (a) Act in an advisory capacity to the city council on all matters pertaining to city libraries.
- (b) Designate its own officers and rules of procedure.
- (c) Consider the annual budget for library purposes during the process of its preparation and make recommendations with respect thereto to the city council and the city manager.

- (d) Recommend to the city council, for adoption, policies regarding the purchase and acquisition of books, journals, maps, publications, and other supplies peculiar to the needs of the library, subject, however, to the limitations of the budget as determined by the city council for such purposes. The expenditure and disbursement of funds for such purchases shall be made and approved as elsewhere in this charter provided.
- (e) Assist in the planning of library facilities to satisfy the library needs of the inhabitants of the city and to that end solicit the cooperation of school authorities and other public and private agencies interested therein.
- (f) Perform such other duties not inconsistent with this charter as may be prescribed by ordinance or resolution of the city council.

#### SECTION 711. - Park and Recreation Commission; Powers and Duties.

There shall be a park and recreation commission consisting of seven members. <sup>[5]</sup>

The park and recreation commission shall have the power and duty to:

- (a) Act in an advisory capacity to the city council in all matters pertaining to parks, community recreation, parkways and street trees.
- (b) Consider the annual budget for parks, recreation, parkways and street tree purposes during the process of its preparation and make recommendations with respect thereto to the city council and the city manager.
- (c) Assist in the planning of parks and recreation programs for the inhabitants of the city, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.
- (d) Perform such other duties not inconsistent with this charter as may be prescribed by ordinance.

(Memo of 6-22-15)

*Footnotes:*

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**Note—** *The commission is now commonly known as the parks, recreation and community services commission and is composed of five members.*

#### ARTICLE VIII. - CIVIL SERVICE SYSTEM

#### SECTION 800. - Civil Service System; Created.

There is hereby created a civil service system for the City of Whittier. The purposes of such system shall be as follows:

- (1) To establish an equitable and uniform procedure for dealing with all personnel affairs; and
- (2) To attract to the city's employment, the best and most competent persons available therefor; and
- (3) To assure that appointments and promotions of employees will be based upon merit and fitness as determined by competitive examinations; and
- (4) To provide a reasonable degree of job security for qualified employees.

The provisions of this article shall be liberally construed to effectuate the foregoing.

#### SECTION 801. - Classified and Unclassified Services.

All employees and officers of the city's shall be included within either the classified or unclassified services, as follows:

- (1) Unclassified service. The unclassified service of the city shall include the following:
  - (a) All elective officers;
  - (b) City manager, assistant city manager, if any, one private secretary to the city manager, city attorney, assistant city attorney, if any, city clerk, city treasurer, controller, city engineer, all department heads designated as such on the city's table of organization, all employees of the library department <sup>[6]</sup>
  - (c) All members of boards and commissions; and
  - (d) Positions in any class or grade created for a temporary purpose; and
  - (e) Persons employed by written agreement, to render professional, scientific, technical or expert services; and
  - (f) Persons employed on a part-time basis; and
  - (g) Any new position hereafter created by the city council, unless declared by the city council to be in the classified service at the time of creation or thereafter.Appointments and dismissals as to positions in the unclassified service shall be made as provided for in this charter, or if not referred to herein, in the manner established by the city council.
- (2) Classified service. The classified service shall consist of all those positions of employment with the city other than those referred to in sub-paragraph (1) hereof.

(Memo of 6-22-15)

--- (6) ---

**Note**— *Library department employees in Level IV management positions and below are in classified service to be consistent with federal Fair Labor Standards law, including, but not limited to, the librarian;*

## SECTION 802. - Status of Present Personnel.

Any person holding a position as an officer or employee of the city, as of the effective date of this charter, or any amendment to this article, shall maintain and carry forward his/her classification and status, whether provisional, acting, probationary, permanent or otherwise, notwithstanding adoption of such amendment hereto; provided such classification and status shall, hereafter, be held subject to the provisions of this charter and any other implementing ordinance, rule or regulation applicable thereto.

(Ord. No. 3112, § 2, 2-25-20)

## SECTION 803. - Appointment to Positions in the Unclassified Service.

In the event that any person holding a position in the classified service of the city, accepts an appointment to a position in the unclassified service, and, within 180 days after the effective date of such appointment, is removed or resigns therefrom, such person shall, upon his/her written request therefor, automatically revert to his/her former position in the classified service, provided, that if such person is removed from his/her unclassified position, specifically, by reason of an act for which disciplinary action could have been taken if such person held a position in the classified service at such time, in which event, such person shall be subject to the imposition of disciplinary action, in the time and manner set forth in section 804 hereof.

(Ord. No. 3112, § 2, 2-25-20)

## SECTION 804. - Disciplinary Proceedings.

The provisions of this section shall apply only to persons in the classified service of the city. Any such person shall be subject to the imposition of disciplinary action, taken in accordance with the provisions of this section, and any lawful ordinance, rule or regulation implementing the same.

- (1) Definitions. The words and phrases herein after set forth shall be defined, for the purpose of this section, in the manner indicated.
  - (a) Appointing authority shall mean those department heads and/or supervisors designated as appointing authorities in the city's approved table of organization; and
  - (b) Classified service shall mean those persons employed by the city in a position included within the classified service created by the provisions of this article, and



- (c) City shall mean the City of Whittier, and
  - (d) City clerk shall mean the duly appointed, acting and qualified city clerk of the city; and
  - (e) City council shall mean the duly elected and qualified city council of the city; and
  - (f) City manager shall mean the duly appointed, acting and qualified city manager of the city; and
  - (g) Disciplinary action shall mean action taken by an appointing authority with reference to an employee within the classified service, for cause, which involves, as to such employee, his/her temporary suspension from duty without pay, and/or his/her demotion, and/or a reduction in pay, or dismissal, imposed for all or any of the causes referred to in subparagraph (2) of this section, and
  - (h) Personnel board or board shall mean the body referred to in section 709 of article VII of this charter, and
  - (i) Secretary of the board shall mean the duly appointed secretary of the personnel board, and
  - (j) Serve or service, when referring to a written document, shall mean the personal delivery thereof, to the addressee, or the deposit of the same in the course of transmission of the United States Postal Service, postage prepaid, addressed to such person at his/her last known address. Service shall be deemed completed as of the date of the physical delivery of the document, or, as of the date of deposit of the same with said postal service.
- (2) Imposition of disciplinary action Disciplinary action shall not be imposed upon any officer or employee whose position is included within the classified service, except for one or more of the following causes:
- (a) Absence without leave; or
  - (b) Discourteous treatment of the public or fellow employees; or
  - (c) Dishonesty; or
  - (d) Final conviction of any crime involving moral turpitude; or
  - (e) Physical or mental inability to perform his/her duties; or
  - (f) Habitual intemperance; or
  - (g) Immoral conduct; or
  - (h) Inattention to duties; or
  - (i) Incompetence; or
  - (j) Insubordination; or
  - (k) Intoxication while on duty occasioned by alcoholic beverage or drugs; or

(1) Any act, or a failure to act, where a duty to act exists, which brings discredit upon the city.

(3) Discipline Procedure.

(a) Appeal to city manager. When an appointing authority determines that disciplinary action should be taken against an employee, he/she shall serve the employee with a written statement consisting of the charges and the disciplinary action imposed. The disciplinary action, as taken, shall be final and conclusive unless, within ten (10) days after the service of such written statement, the affected employee files with the city manager, a written letter of appeal, appealing the appointing authority's decision imposing such disciplinary action. Within not to exceed 30 days after receipt by the city manager of such a written appeal, he/she shall set a time and place for an informal hearing upon such appeal, and serve notice thereof upon the affected employee, the appointing authority, and any other person requesting such notice. At such time and place, the city manager shall conduct an informal hearing and shall consider all relevant oral and documentary evidence presented thereat for the purpose of determining whether the disciplinary action, as taken, is supported, factually, by the evidence presented and is in accordance with this charter and any other ordinance, rule or regulation implementing the same. The city manager, as a result of the evidence presented at such hearing, shall affirm, overrule or modify, in whole or in part, the action taken by the appointing authority. The city manager shall render his/her decision in written form, containing findings of fact in support of his/her decision. The city manager shall, within five (5) calendar days after the rendering of such decision, serve a copy thereof upon the employee, the appointing authority and any other person requesting the same. The decision of the city manager shall be final and conclusive in the absence of an appeal taken in the time and manner hereafter provided.

(b) Appeal to personnel board. Any decision of the city manager, as hereinabove described, shall be subject to an appeal to the personnel board. An appeal to said board shall be perfected by the filing, with the city clerk, of a written letter of appeal, executed by the affected employee, appealing the decision of the city manager to said board. Said written letter of appeal shall briefly outline the basis thereof and shall be filed within ten (10) days after service of the city manager's said decision upon such affected employee. Upon receipt of a timely letter of appeal, the city clerk shall, forthwith, transmit such appeal to the secretary of the board who shall set the matter for hearing at the next most convenient meeting of the personnel. The secretary of the board shall give not less than five (5) days written notice to the affected employee, the

city manager, the appointing authority and any other person requesting the same, of the time and place of such hearing. At the time and place of such hearing the personnel board shall conduct a de novo hearing in order to determine whether the decision of the appointing authority as approved or modified by the city manager is supported by the evidence presented and is consistent with the provisions of this charter and any implementing ordinance, rule or regulation applicable thereto.

The proceeding before the personnel board shall be conducted in accordance with the provisions of the Ralph M. Brown Act, and such other rule of procedure consistent therewith, as the board may adopt. The board shall give all interested parties a reasonable opportunity to be heard on relevant issues, provided, that the rules of evidence utilized in judicial proceedings shall not apply to such proceedings, but the board shall observe the substance of such rules to the end that the matter before it can be fairly determined upon reliable evidentiary matters. At the conclusion of such hearing, the personnel board, based solely upon the evidence presented to it, by resolution, shall affirm, overrule or modify, in whole or in part, the determination made by the city manager. The secretary of the board shall give written notice to the affected employee, the city manager, the appointing authority and any other person requesting the same, of the decision of the personnel board with regard to such matter. The decision of the board shall be final and conclusive in the absence of an appeal taken at the time and manner hereinafter provided.

(c) Appeal to the city council. Any decision of the personnel board with regard to disciplinary action shall be subject to an appeal to the city council either by the affected employee, or by the appointing authority with the approval of the city manager. An appeal to the city council shall be perfected by the filing with the city clerk, within ten (10) days after the service of notice of the personnel board's action, of a written letter of appeal, and the payment of a fee, in an amount established by the city clerk, sufficient to defray the cost of preparation of a transcript of the board's proceedings. Where the appeal is taken by the appointing authority, the transcript cost shall be a proper charge against the city. Such an appeal shall contain a request by the appealing party for the city council, alternatively:

- (1) To conduct a de novo public hearing upon such matter; or
- (2) To review the said decision of the personnel board based solely upon the transcript of the proceedings before the board, together with written arguments relating thereto submitted by the affected employee and/or the appointing authority; or
- (3) To review such matter based upon the transcript of the board's proceedings before the personnel board, together with additional evidence on specific issues.

As soon as possible after the receipt of such an appeal, the city clerk shall cause to be

prepared, at the expense of the appealing party, a transcript of the board's proceedings, which transcript shall be transmitted to the city council. The council shall determine, based upon a review of the transcript, whether it will conduct a de novo public hearing, review the matter solely upon the transcript and written arguments, or upon the transcript together with a partial de novo hearing upon specific issues. The city council's determination as to which method of review shall be employed shall be final and conclusive. If a de novo hearing is to be held, or if a partial de novo hearing for the purpose of admitting additional evidence is to be conducted, the same shall be done only at a public hearing which shall be noticed in the time and manner, and conducted as in the case of an appeal to the personnel board. The decision of the city council, by resolution, shall be, expeditiously made and notice thereof. shall be served upon the affected employee, the secretary of the board, the city manager, the appointing authority and any such other person requesting written notice thereof. The action as taken by the council shall affirm, overrule or modify, in whole or in part, the decision reached by the personnel board. The decision of the city council shall be final and conclusive in all cases.

Where disciplinary action is taken involving suspension from duty, a reduction in pay, or a demotion, the action, as taken, shall be suspended during the pendency of the appellate process; provided that disciplinary action in the form of a dismissal, notwithstanding any appellate process, shall be effective from the date imposed by the appointing authority and such person shall be reinstated only if so ordered by an appellate authority.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 805. - Abolition of position.

Whenever in the judgment of the city council, it becomes necessary, in the interest of economy, efficiency or because the necessity for the position of employment involved no longer exists, the council may abolish any position or employment in the classified service. The city council shall accomplish such abolition by resolution, which shall set forth the reason or necessity which requires the same.

Whenever any position is abolished and the job classifications thereof are substantially the equivalent of another position within the city's service, the city manager shall demote or transfer the person or persons holding such position or positions, based upon their length of service with the city. Any employee terminated because of the abolition of his/her position, shall be automatically reinstated if substantially the same position is recreated within one (1) year after such abolition.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 806. - Discrimination.

No person in the city's service or seeking admission thereto, shall be employed, promoted, demoted or discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, religious belief, sex or age, except that the city council may establish age limits for positions in the police and fire departments. <sup>[7]</sup>

(Memo of 6-22-15)

*Footnotes:*

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**Note—** *The City no longer operates a fire department.*

#### SECTION 807. - Absence because of injury.

Notwithstanding any other provision hereof, or any other rule or regulation, the absence of any officer or employee from his/her position, caused by injury or disease which entitles him/her to compensation pursuant to Section 3201 et seq. of the Labor Code of the State of California, shall not constitute a break in such person's continuous service for the purpose of salary adjustments, sick leave, vacation leave or seniority rights.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 808. - Contract of performance of administrative functions.

The city council may contract with any person, including, but not limited to, another public agency, for the preparation and/or conduct of competitive examinations for positions in the city's classified service, or for the performance of any other personnel administrative service.

#### SECTION 809. - Implementation of Charter.

The city council shall, by ordinance, rule or regulation, implement the provisions of this article, as may be necessary, to carry out the purpose and intent hereof.

### ARTICLE IX. - RETIREMENT

#### SECTION 900. - State system.

Plenary authority and power are hereby vested in the city, its city council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the State Employees' Retirement Act, as it now exists or hereafter may

be amended, to enable the city to continue as a contracting city under the State Employees' Retirement System. The city council may terminate any contract with the Board of Administration of the State Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the city, voting on such proposition at an election at which such proposal is presented.

## ARTICLE X. - ELECTIONS

### SECTION 1000. - General Municipal Elections.

General municipal elections for the election of officers and for such other purposes as the city council may prescribe shall be held in the city on the second Tuesday in April in each even numbered year. The first such general municipal election shall: be held on the first Tuesday in April, 1956.

(Ord. No. 3093, § 2, 9-11-18; Ord. No. 3126, § 2, 6-8-21)

### SECTION 1001. - Special Municipal Elections.

All other municipal elections that may be held by authority of this charter, or of any law, shall be known as special municipal elections.

### SECTION 1002. - Procedure for Holding Elections.

Unless otherwise provided by ordinance here-after enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of municipal elections so far as the same are not in conflict with this charter.

### SECTION 1003. - Initiative; Referendum and Recall.

There are hereby reserved to the electors of the city the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the city so far as such provisions of the Elections Code are not in conflict with the provisions of this charter.

## ARTICLE XI. - FISCAL ADMINISTRATION

### SECTION 1100. - Fiscal Year.

The fiscal year of the city government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

SECTION 1101. - Annual Budget; Preparation by the City Manager.

At such date as the city manager shall determine, each department head shall furnish to the city manager estimates of revenue and expenditures for his/her department, detailed in such manner as may be prescribed by the city manager. In preparing the proposed budget, the city manager shall review the estimates, hold conferences thereon with the respective department heads and may revise the estimates as he/she may deem advisable.

(Ord. No. 3112, § 2, 2-25-20)

SECTION 1102. - Budget, Submission to City Council.

At least thirty-five days prior to the beginning of each fiscal year, the city manager shall submit to the city council the proposed budget as prepared by him/her. After reviewing same and making such revisions as it may deem advisable, the city council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the city clerk at least ten days prior to said hearing.

(Ord. No. 3112, § 2, 2-25-20)

SECTION 1103. - Budget, Public Hearing.

At the time so advertised or at any time which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the proposed budget, which interested persons desiring to be heard shall be given such opportunity.

SECTION 1104. - Budget Adoption.

After the conclusion of the public hearing the city council shall make any revisions of the proposed budget that it may deem advisable and on or before June 30, it shall adopt the budget. A copy thereof, certified by the city clerk, shall be filed with the person retained by the city council to perform auditing functions for the council and a further copy shall be placed, and shall remain on file, in the office of the city clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the city.

SECTION 1105. - Budget, Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any meeting after the adoption of the budget, the city council may amend or supplement the budget by motion adopted by the affirmative votes of at least three members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose or to appropriate available funds not included in the budget or to cancel any appropriation not expended or encumbered.

#### SECTION 1106. - Centralized Purchasing.

Under the control and direction of the city manager there shall be established a centralized purchasing system for all city departments and agencies.

#### SECTION 1107. - Tax Limits.

- (a) The city council shall not levy a property tax for municipal purposes, except as otherwise provided in this section, in excess of one dollar annually on each one hundred dollars of the assessed value of taxable property in the city, unless authorized by the affirmative votes of two-thirds of those electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.
- (b) There shall be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, in addition to the above limit, if no other provision for payment thereof is made:
  - (1) A tax sufficient to meet all liabilities of the city for principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the city; and
  - (2) A tax sufficient to meet all obligations of the city to the State Employees' Retirement System for the retirement of city employees, due and unpaid or to become due during the ensuing fiscal year.
- (c) Special levies, in addition to the above limits, may be made annually for the purposes, within the limits, and to the extent that cities of the sixth class may make special levies in addition to their general tax limit, under the codes and statutes of the state as they may exist from time to time.



The proceeds of any such special levy shall be used only for the respective purposes for which it is levied.

#### SECTION 1108. - Tax Procedure.

The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, may be prescribed by ordinance of the city council.

#### SECTION 1109. - Bonded Debt Limit.

The city shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen per cent of the total assessed valuation, for purposes of city taxation, of all the real and personal property within the city.

No bonded indebtedness which shall constitute a general obligation of the city may be created unless authorized by the affirmative votes of two-thirds of those electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the state constitution and of this charter.

#### SECTION 1110. - Contracts on Public Works.

Every project for the construction or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds, and every purchase of supplies or materials for any such project when the total expenditures for the same exceed the sum of \$10,000.00, shall be let by the city council by contract to the lowest responsible bidder after notice by publication in the official newspaper by two or more insertions; the first of which shall be at least ten days before the time for opening bids. Projects for the maintenance or repair of streets, drains or sewers are excepted from the requirements of this paragraph if the city council determines that such work can be performed more economically by a city department than by contracting for the doing of such work.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the city. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten per cent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of his/her bidder's security shall be declared forfeited to the city and shall be collected and paid into the general fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The city council may reject any and all bids presented and may re-advertise in its discretion.

The city council, without advertising for bids, or after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the city manager, the work in question may be performed better or more economically by the city with its own employees or the supplies or materials may be purchased more economically on the open market, and after the adoption of a resolution to this effect by at least four affirmative votes of the council may proceed to have said work done or said supplies or materials purchased in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids, if such work or supplies or materials shall be deemed by the city council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by at least four affirmative votes of the council and containing a declaration of the facts constituting such urgency.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 1111. - Cash Basis Fund.

The city council shall maintain a revolving fund, to be known as the "cash basis fund," for the purpose of placing the payment of the running expenses of the city on a cash basis. A reserve shall be built up in this fund from any available sources in an amount which the city council deems sufficient with which to meet all lawful demands against the city for the first five months, or other necessary period, of the succeeding fiscal year prior to the receipt of ad valorem tax revenues. Transfers may be made by the city council from such fund to any other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis. All moneys so transferred from the cash basis fund shall be returned thereto as soon as sufficient tax moneys are apportioned and in any event before the end of the fiscal year.

#### SECTION 1112. - Capital Outlays Fund.

A fund for capital outlays generally is hereby created, to be known as the "capital outlays fund." The city council may create by ordinance a special fund or funds for a special capital outlay purpose. The city council may levy and collect taxes for capital outlays and may include in the annual tax levy a levy for such purposes in which event it must apportion and appropriate to any such fund or funds the moneys derived from such levy. It may not, in making such levy, exceed the maximum tax rate provided for in this charter, unless authorized by the affirmative votes of two-thirds of those electors voting on the proposition at any election at which such question is submitted. The city council may transfer to any such fund any unencumbered surplus funds remaining on hand in the city at any time.

Once created, such fund shall remain inviolate for the purpose for which it was created, if for capital outlays generally, then for any such purposes, and if a special capital outlay, then for such purpose only,

unless the use of such fund for some other capital outlay purpose is authorized by the affirmative votes of a majority of those electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any special capital outlay fund has been created has been accomplished, the city council may transfer any unexpended or unencumbered surplus remaining in such fund to the fund for capital outlays generally, established by this charter.

#### SECTION 1113. - Presentation of demands

All claims for damages against the city must be verified and presented to the city clerk within ninety days after the occurrence, event or transaction from which the damages allegedly arose, or within such shorter time as is otherwise provided by law, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected in writing by order of the city council and the date thereof given.

All other demands against the city must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the controller within ninety days after the last item of the account or claim accrued. The controller shall examine the same. If the amount thereof is legally due and there remains on his/her books an unexhausted balance of an appropriation against which the same may be charged, he/she shall approve such demand and draw his/her warrant on the city treasurer therefor, payable out of the proper fund. Otherwise he/she shall reject it. Objections of the controller may be overruled by the city council and the warrant ordered drawn. <sup>[8]</sup>

The controller shall transmit such demand, with his/her approval or rejection thereof endorsed thereon, and warrant, if any, to the city manager. If a demand is one for an item included within an approved budget appropriation, it shall require the approval of the city manager, otherwise it shall require the approval of the city council, following the adoption by it of an amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the city manager to approve any demand, in whole or in part, may present the same to the city council which, after examining into the matter, may approve or reject the demand in whole or in part.

(Memo of 6-22-15; Ord. No. 3112, § 2, 2-25-20)

##### *Footnotes:*

--- (8) ---

**Note**— *Ninety-day limit is not enforced as it conflicts with State law that establishes a six-month limit.*

#### SECTION 1114. - Registering Warrants.

Warrants on the city treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the city council by resolution.

#### SECTION 1115. - Actions Against City.

No suit shall be brought for money or damages against the city or any board, commission or officer thereof until a claim or demand for the same has been presented as in this charter provided and such claim and demand has been rejected in whole or in part. If rejected in part suit may be brought to recover the whole. Failure to complete action approving or rejecting any claim or demand within sixty days from the day the same is presented shall be deemed a rejection thereof.

#### SECTION 1116. - Independent Audit.

The city council shall employ at the beginning of each fiscal year, a qualified certified public accountant who shall, at such time or times as may be specified by the city council, and at such other times as he/she shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the city council may direct. As soon as practicable after the end of the fiscal year, a final audit and a report shall be submitted by such accountant to the city council, one copy thereof to be distributed to each member, one to the city manager, controller, treasurer, and city attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the office of the city clerk where they shall be available for the general public, and a copy of the financial statement as of the close of the fiscal year shall be published in the official newspaper. <sup>[9]</sup>

(Memo of 6-22-15; Ord. No. 3112, § 2, 2-25-20)

##### *Footnotes:*

--- (9) ---

**Note**— *Lengthiness of the modern audit makes cost of publication prohibitive so City now publishes a notice that the audit is available for review at city hall, libraries, and online.*

#### ARTICLE XII. - BOARD OF EDUCATION

#### SECTION 1200. - State Law Governs.

The manner in which, the times at which, and the terms for which the members of the boards of education shall be elected or appointed, their qualifications, compensation and removal and the number

which shall constitute any one of such boards shall be as now or hereafter prescribed by the Education Code of the State of California.

#### SECTION 1201. - Effect of Charter.

The adoption of this charter shall not have the effect of creating any new school district nor shall the adoption of this charter have any effect upon the existence or boundaries of any present school districts within the city or of which the city comprises a part, but such present school districts shall continue in existence subject to the provisions of the laws of the State of California as the same now exist or hereafter may exist.

#### ARTICLE XIII. - HOSPITAL DEPARTMENT

*Footnotes:*

--- (10) ---

**Note**— *The City no longer operates a hospital.*

#### SECTION 1300. - Administration.

There shall be a hospital department which shall be under the administration of a board of hospital trustees subject, however, to the fiscal and budgetary duties of the city manager as set forth in this charter. Said department shall include the Murphy Memorial Hospital and any other hospitals, nurses' home or nurses' training school now or hereafter operated by the city. During such periods of time, if any, as no hospitals, nurses' homes or nurses' training school is operated by the city, this article shall be suspended and inoperative.

#### SECTION 1301. - Board of Hospital Trustees.

There shall be a board of hospital trustees consisting of seven members. The city manager shall, by virtue of his/her office, be a voting member of the board of hospital trustees and shall constitute one of the seven members of said board. All of the provisions of article VII of this charter relating to boards and commissions generally, to the organization, meetings, conduct of proceedings, and expenses thereof, and to the appointment, qualifications, term of office, removal, compensation, and powers of members thereof, where not inconsistent with the provisions of this article, shall apply to the board of hospital trustees and to its members.

(Ord. No. 3112, § 2, 2-25-20)

#### SECTION 1302. - Board of Hospital Trustees; Powers and Duties.

Subject to the provisions of this charter, the board of hospital trustees shall have the power and duty to:

- (a) Prepare and submit a proposed annual budget for the hospital department and make recommendations with respect thereto to the city council and the city manager. The board of hospital trustees shall act as the department head in the preparation and submission of the hospital department budget and shall have the opportunity for comment and recommendation directly to the city council after review of the budget by the city manager.
- (b) Within the limits of the budget, administer the hospital department and authorize the acquisition, construction, improvement, extension, enlargement, diminution, or curtailment of all or any part of any service or facility of the hospital. No such acquisition, construction, improvement, extension, enlargement, diminution or curtailment shall be made without such authorization.
- (c) Have charge of the administration of all properties, facilities, employees, and services of the hospital department, make and enforce all policies, rules and regulations necessary for the administration, protection and maintenance of said properties, facilities and services, make and enforce rules for the administration and regulation of employees of the hospital department and the members of the staff or staffs thereof, and for the care and regulation of patients, and accept money, personal property or real estate donated to the city for hospital department purposes, subject to approval of the city council.
- (d) Require of the hospital superintendent monthly reports of receipts and expenditures of the hospital department and monthly statements of the general condition of the department and its facilities. The city council shall be furnished copies of said statements.
- (e) Establish rates and charges of all services, goods and facilities furnished or provided by the hospital department.
- (f) Appoint, suspend or remove the hospital superintendent, who shall be the department head and who shall be directly responsible to the board. The city council shall be advised in advance of any action to be taken with respect to the appointment, suspension or removal of the hospital superintendent.
- (g) Designate its own secretary.
- (h) Make such reports and recommendations to the city council regarding the hospital department as it shall deem advisable.
- (i) Establish a professional staff or staffs and appoint the members thereof.
- (j) Exercise such other powers and perform such other duties as may be prescribed by ordinance not inconsistent with any of the provisions of this charter.

### SECTION 1303. - Purchases and Expenditures.

Within the limits of the budget, the purchase of equipment, materials and supplies peculiar to the needs of the hospital department may be made by the hospital superintendent and need not be made through the centralized purchasing system. The expenditure and disbursement of funds of the hospital department shall be made and approved as elsewhere in this charter provided.

### SECTION 1304. - Use of Revenue.

The revenue of the hospital department for each fiscal year shall be kept separate and apart from all other moneys of the city and shall be used for the purposes and in the order as follows:

- (a) For the payment of the operating and maintenance expenses of the hospital department, including any necessary contribution to retirement of its employees, and the maintenance of an operating reserve in an amount not to exceed one-fourth of the preceding fiscal year's operating and maintenance expenditures.
- (b) For the payment of interest on the bonded debt incurred for the construction of acquisition o property of the hospital department.
- (c) For the payment or provision for the payment of the principal of said debt as it may become due.
- (d) The remainder, if any, shall be used only for the purposes of the hospital department as recommended by the board of hospital trustees and approved by the city council.

## ARTICLE XIV. - FRANCHISES

### SECTION 1400. - Granting of Franchises.

Any person, firm or corporation furnishing the city or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or for the operation of plants works or equipment for the furnishing thereof, or traversing any portion of the city for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The city council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions of such grants, or the making thereof, all subject to the provisions of this charter.

Nothing in this section, or elsewhere in this article, shall apply to the city, or to any department thereof, when furnishing any such utility or service.

#### SECTION 1401. - Resolution of Intention; Notice and Public Hearing.

Before granting any franchise, the city council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the city council and be heard thereon. It shall direct the city clerk to publish said resolution at least once, within fifteen days of the passage thereof, in the official newspaper. Said notice shall be published at least ten days prior to the date of hearing.

At the time set for the hearing the city council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the city council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon.

#### SECTION 1402. - Term of Franchise.

Every franchise shall state the term for which it is granted, which shall not exceed twenty-five years.

#### SECTION 1403. - Eminent Domain.

No franchise grant shall in any way, or to any extent, impair or affect the right of the city to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the city's right of eminent domain with respect to any public utility.

### ARTICLE XV. - MISCELLANEOUS

#### SECTION 1500. - Definitions.

Unless the provisions or the context otherwise requires, as used in this charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Whittier, and "department," "board," "commission," "agency," "officer,"



or "employee," is a department, board, commission, agency officer or employee, as the case may be, of the City of Whittier.

(c) "County" is the County of Los Angeles.

(d) "State" is the State of California.

#### SECTION 1501. - Violations.

The violation of any provision of this charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding five hundred dollars or by imprisonment for a term of not exceeding six months or by both such fine and imprisonment.

#### SECTION 1502. - Validity.

If any provision of this charter, or the application thereof to any person or circumstance is held invalid, the remainder of the charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Charter approved by the registered voters voting thereon in an election held on the 13th day of April, 1954.

Said charter was adopted in Assembly January 4th, 1955 (Assembly Concurrent Resolution No. 3) and was officially endorsed and filed in the office of the Secretary of State on January 7th, 1955.

THE ABOVE REPRINT OF THE CITY OF WHITTIER CHARTER INCLUDES ANY AND ALL AMENDMENTS TO THIS DATE AND IS IN FULL FORCE AND EFFECT. DATED: JULY 1, 1974.

#### CHARTER AMENDMENTS

The following amendments were adopted by the voters of the City of Whittier and approved by the Legislature of the State of California on the dates as noted and are made a part of this printing.

##### CHARTER AMENDMENT NO. 1 — Amended Section 507

Election—April 3, 1956 Legislature—January 15, 1957

##### \*CHARTER AMENDMENT NO. 2 — Added Section 801.1

Election—April 3, 1956 Legislature—January 15, 1957

##### CHARTER AMENDMENT NO. 3 — Amended Section 401

Election—Nov. 4, 1958 Legislature—March 2, 1959

##### \*CHARTER AMENDMENT NO 4. — Amended Section 801.1

Election—April 12, 1960 Legislature—January 23, 1961

CHARTER AMENDMENT NO. 5 — Amended Section 710

Election—April 14, 1964 Legislature—May 6, 1964

CHARTER AMENDMENT NO. 6 — Amendment Section 1110

Election—April 14, 1964 Legislature—May 6, 1964

CHARTER AMENDMENT NO. 7 — Amended Article VIII

Election—April 14, 1970 Legislature—May 7, 1970

CHARTER AMENDMENT NO. 8 — Amended Section 504(a) and Section 710(d)

Election—April 14, 1970 Legislature—May 7, 1970

\*Voters repealed section 801.1 at the election of April 14, 1964, approved by Legislature May 6, 1964.