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Introduction Date: August 4, 2026
Public Hearing/Enactment Date: _____, 2026

**CITY OF WHITTIER, ALASKA
ORDINANCE 2026-005**

AN ORDINANCE OF THE CITY COUNCIL OF WHITTIER, ALASKA, AMENDING PORTIONS OF WMC CHAPTER 3.38 "LEASE OF CITY LANDS" TO PRIORITIZE LEASES SERVING THE NEEDS OF THE COMMUNITY AND TO DEPRIORITIZE LEASE APPLICATION CRITERIA REGARDING FAIR MARKET VALUE

WHEREAS, it is in the best interest of the Whittier Community, including the City of Whittier (the "City"), its residents, businesses, and local economy contributors to utilize its real property to best meet the need of the local economy; and

WHEREAS, the City seeks to adopt leasing policies that are fair and non-discriminatory; and

WHEREAS, the City is dedicated to collaborating with and supporting both its private residents and the businesses that provide much needed employment, goods, and services in the City; and

WHEREAS, transparent and efficient lease policies ensure new and existing businesses have equal opportunities to thrive in the City and are essential to the City's collaboration with and support of its business community members.

NOW, THEREFORE, THE WHITTIER CITY COUNCIL ORDAINS:

Section 1. Amendment. Whittier Municipal Code Section 3.38.330 "Land allocation plan—Property available for lease," is amended as follows:

3.38.330 - Land allocation plan—Property available for lease.

- A. Unless dedicated or reserved to another purpose, all real property including tide, submerged or shore lands to which the city has a right, title and interest as owner or lessee, or to which the city may become entitled, may be leased as provided in this chapter. In the case of any conflict between this chapter and any local, state or federal law governing the leasing of city lands, this chapter shall prevail to the greatest extent permitted by law.
- B. The city shall maintain a list of all city-owned properties authorized for lease by council. This list shall be adopted annually and contain the information required under this chapter. The list may be called the "Whittier Land Allocation Plan" and will be made available to the public at the city clerk's office.
- C. Council shall adopt a land allocation plan that identifies:

1. City-owned property available for lease;
 2. The property description, lease rate, preferred length of the lease term for each available parcel; and
 3. Any requirements, preferences or restrictions regarding use and/or development.
- D. Council ~~may~~ **shall** identify any property in the land allocation plan that is subject to competitive bidding. Property subject to competitive bidding in the land allocation plan need only identify the property description in the land allocation plan but all other terms required in subsection (C) of this section shall be identified in the request for proposal for such properties.
- E. Prior to the adoption of the land allocation plan, council shall hold a work session. Planning commission members and city staff may provide recommendations to council during the work session regarding city-owned property available for lease and the terms of such leases.
- F. The city shall provide public notice of the adoption of the land allocation plan and the city-owned real property available for lease identified in the land allocation plan no more than 60 days after its adoption.
- G. All uses and activities on city-owned real property available for lease are subject to all applicable local, state, and federal laws and regulations.
- H. Council may restrict specific city-owned properties to certain uses or classes of use that serve the city's best interest.

Section 2. Amendment. Whittier Municipal Code Section 3.38.360 "Lease applications," is amended as follows:

3.38.360 - Lease applications.

Except for property subject to competitive bidding under this chapter, persons interested in entering a long-term or short-term lease with the city may submit a lease application to the city clerk. The city manager shall consider all applications and determine if an application is complete and meets the criteria identified in the land allocation plan. When the city receives more than one lease application for a parcel that meets the criteria established for that parcel in the land allocation plan, the city manager shall evaluate the applications using the criteria in section 3.38.380 and award the lease most advantageous to the city. If both applicants are equally advantageous to the city, the city manager shall award the lease to the applicant who submitted a completed application first. **A city manager's long-term lease award is subject to the council's approval via resolution pursuant to section 3.38.350.** Applicants may be charged a fee for processing a lease application.

Section 3. Amendment. Whittier Municipal Code Section 3.38.370 "Requests for proposals—Competitive bidding process," is amended as follows:

3.38.370 - Requests for proposals—Competitive bidding process.

- A.** **The purpose of this section is to ensure that the City awards the lease that serves the best interests of the City and the public. The most advantageous lease to the City is the lease that promotes the interests, fulfils the needs of the community and the public. While the highest lease rate is one criteria considered by the City in evaluating bids, the bid with the highest lease rate will not necessarily constitute the most advantageous bid. The City Council shall award the lease that is most advantageous to the City based upon consideration of all of the criteria.**
- ~~A.~~ **B.** The city manager may issue a request for proposals to lease any property that has been subject to competitive bidding under the land allocation plan at any time after posting the notice required in subsection 3.38.330(f).
- ~~B.~~ **C.** A request for proposal advertised by the city must identify the property description of the property available for lease, the time frame for the submission of requests for proposals, any preferred uses or industries, and the overall criteria the city intends to use to score and rank proposals.
- ~~C.~~ **D.** The city manager must obtain approval from council before requesting proposals to lease property not identified in the land allocation plan as property available for lease.

Section 4. Amendment. Whittier Municipal Code Section 3.38.400 "Notice to award," is amended as follows:

3.38.400 - Notice to award.

- A. The city manager shall consider all responses to the city's request for proposals that are timely and responsive. Untimely submissions shall be returned to the proposer without review and that proposer shall not be considered.
- B. The city manager may, in the city manager's sole discretion, and upon a determination that none of the proposals are in the city's best interest, recommend rejection of all proposals to city council.
- C. Upon a determination that a proposal is the most advantageous to the city, the city manager shall recommend the proposal to council for acceptance. If council approves the recommendation, the city manager shall issue a notice to award the lease to the successful proposer. The city manager's

recommendation shall be presented to council in a written memorandum identifying the recommended winning proposer, the property description, the essential terms of the proposed lease, and the reasons the city manager recommends the award. **In a separate document presented to council, the city manager shall list any other applicants and the reason for the city manager's rejection. Upon request, the City Manager shall provide City Council with all responsive proposals.**

- D. If council adopts the city manager's recommendation, the city manager shall negotiate with the winning applicant and present a final lease to council for approval. A notice to award is conditional upon the city manager's successful negotiation of a final written lease consistent with the terms upon which the award was based. **If City Council does not adopt the City Manager's recommendation but selects an alternative winning applicant. City Council must direct the City Manager to prepare a resolution reflecting City Council's reasons for rejecting the City Manager's recommendation and selecting the alternative winning applicant. The resolution shall be presented to City Council for approval at its next meeting.**
- E. The city manager may, with council approval, rescind a notice to award. A notice to award becomes void on the date the city manager provides written notice to the proposer that the award has been rescinded.
- F. The city manager may rescind a notice to award at any time prior to the execution of a lease if the proposer can no longer meet the terms of the proposal.
- G. If the city manager rescinds a notice to award, the city manager may negotiate with the next most responsive proposer and submit a new recommendation for award to council and council may approve the award of the proposal to that recommended proposer. If negotiations with the next most responsive bidder are unsuccessful, all bids must be rejected and a new request for proposal may be issued.
- H. Council may approve other bidding or proposal procedures or exceptions to these procedures via resolution.

Section 6. Amendment. Whittier Municipal Code Section 3.38.420 "Lease rental rates," is amended as follows:

3.38.420 - Lease rental rates.

- A. Except as otherwise provided in this section, all property shall be leased at no less than "fair market rent."

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- ~~B.~~ Payments of a higher than fair market rent resulting from a proposal or lease application are generally in the public interest and will help establish fair market rent using current market forces.
- ~~C.~~ **B.** Council may establish a minimum rent or "asking price." It may set a minimum rent at an amount equal to or higher than the estimated "fair market rent" if it finds that it is in public interest to do so. It may set uniform rental rates for a class of similar properties that remain available for leasing after the conclusion of a competitive lease offering.
- ~~D.~~ **C.** Except as otherwise provided in this chapter, council may approve a lease of city land for less than fair market rent only if the motion approving the lease contains a finding that the lease is for a valuable public purpose or use, and a statement identifying such public purpose or use.
- ~~E.~~ **D.** The lease shall provide for payment of interest, a late fee for rent past due, attorneys' fees and costs arising from enforcing the terms and conditions of the lease to the maximum extent allowed by law.
- ~~F.~~ **E.** Lease amounts shall be adjusted annually based on the Anchorage Consumer Price Index.
- FG.** No assignment of a lease shall be approved unless the rental rate is at or above "fair market rent" at the time the assignment is executed.

Section 7. Amendment. Whittier Municipal Code Section 3.38.460 "Options to renew," is amended as follows:

3.38.460 - Options to renew.

- A. Leases may contain no more than two options to renew.
- B. A lessee may not exercise an option to renew unless the city manager determines that the lessee is in full compliance with the terms of the lease at the time of renewal.
- C. **Except for leases with a valid remaining option to renew, lessee may request an option to renew a long-term lease up to 24 months, but not less than 60 days, prior to the lease expiration date. The city shall notify lessee in writing, verified by certified mail or other form of verified receipt, within 18 months of renewal if lessee has not submitted a renewal application.**
- ~~C.~~ **D.** A lessee whose initial lease and all options to renew have expired shall have no automatic right of further renewal or extensions.

Section 8. Amendment. Whittier Municipal Code Section 3.38.480 "Lease renewal or approval—Competitive bidding exemption," is repealed and enacted as follows:

3.38.480 - Lease renewal or approval—Competitive bidding exemption.

- A. Council, ~~upon written recommendation by the city manager,~~ may exempt the renewal of a lease from competitive bidding if council finds such exemption serves the city's best interests.
- B. A lessee seeking to enter into a new lease with the city exempted from competitive bidding under this section must submit a lease application and a written request for a new lease to the city manager at least **90 days**~~12 months~~, but no more than 18 months, prior to the expiration of the existing lease. The city manager shall notify council of new lease requests under this section. The city will review the application but is under no obligation to enter into a new lease.
- C. If council approves a new lease exempted from competitive bidding under this section, it must do so by resolution within six months of the date the lease application is filed with the city. Failure to do so acts as a denial of the new lease application.
- D. Council shall consider the following factors when determining whether to exempt a lease from competitive bidding under this section:
 - 1. Lessee's past capital investment and binding commitment to future capital investment;
 - 2. Lessee's financial condition and prior lease history;
 - 3. The number of persons employed and the prospect for future employment;
 - 4. Tax revenues and other financial benefits to the city anticipated in the future if the lease is renewed;
 - 5. Consistency of past use and intended future use with all applicable laws, including land use codes and regulations, the comprehensive plan, and overall economic development plan;
 - 6. Other opportunities for use of the property that may provide greater benefit to the city; and
 - 7. Other social, policy, and economic considerations as determined by council.

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Section 9. Classification. This Ordinance is a permanent code ordinance.

Section 10. Severability. If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 11. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this ____ day of _____ 2026.

Victor Shen
Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Shelby Carlson
Acting City Clerk

(City Seal)