

Sponsored by: Mayor Shen
Introduction Date: August 4, 2026
Public Hearing/Enactment Date: _____, 2026

**CITY OF WHITTIER, ALASKA
NON-CODE ORDINANCE 2026-004**

A NON-CODE ORDINANCE OF THE CITY COUNCIL OF WHITTIER, ALASKA EXEMPTING INCUMBENT LEASEHOLDERS AND SUBLESSEES OF CITY PROPERTY INTERESTS FROM WHITTIER MUNICIPAL CODE 3.38.480 AND ADOPTING AN APPLICATION PROCESS THAT ALLOWS SUCH LESSEES AND SUBLESSEES TO APPLY FOR DIRECT NEGOTIATION OF A NEW LEASE WITH THE CITY ON THE SAME PROPERTY LEASED OR SUBLEASED BY APPLICANTS SO LONG AS THE LEASE OR SUBLEASE EXPIRED OR WILL EXPIRE IN 2026 AND THE APPLICATION IS RECEIVED WITHIN 14 DAYS OF THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, the City of Whittier adopted new laws governing leasing of interests in City property in 2023; and

WHEREAS, many long-term leaseholders failed to comply with provisions that allowed incumbent leaseholders to apply for an exemption from competitive bidding procedures when certain criteria were met; and

WHEREAS, City Council finds that it is in the best interest of the City to allow incumbent leaseholders to apply for exemption both from competitive bidding and competition in the lease application process given that many of these leaseholders may have longstanding businesses in full operation and improvements in which such leaseholders have made substantial investment and the City and the public has an interest in fostering these investments in the community; and

WHEREAS, the City Administration attempted to give some of these incumbent leaseholders an opportunity to apply for an exemption under WMC 3.38.480 but the City Attorney recommended against doing so as the time period in which an application for exemption may be filed had expired; and

WHEREAS, allowing incumbent leaseholders an opportunity to apply for an exemption from competitive leasing provisions serves a legitimate public purpose because it allows the City Manager, and ultimately the City Council, the ability to consider the reasons for allowing an exemption but ensures an exemption is only granted when specific criteria are met demonstrating that an exemption promotes the best interest of the City, its taxpayers, economic development, and growth within the community,

NOW, THEREFORE, THE WHITTIER CITY COUNCIL ORDAINS:

Section 1. Exemption. Leases expiring in 2026 shall not be subject to WMC 3.38.480 or any other provision of Chapter 3.38, “Lease of City Lands,” that would prohibit lessees or sublessees with leases expiring in 2026 from applying for an exemption from competition in the lease application process.

Section 2. Application for Direct Negotiation of A New Lease-Eligible Applicants. All lessees and sublessees of City property or an interest in City property with long term leases or subleases that expired or expire in 2026 may apply for direct negotiation of a new lease so long as all provisions of this section are met:

- A.** The applicant was the lessee or sublessee of a lease or sublease on the same property for which the lessee or sublessee is applying for direct negotiation of a new lease.
- B.** The applicant, if lessee, was in full compliance with the terms of the lease at the time of its expiration.
- C.** The lease expired in 2026.
- D.** There are no outstanding payments owed to the City by the applicant.

Section 3. Direct Negotiation Application Criteria.

- A.** A lessee or sublessee seeking to enter into a new lease with the City under this Ordinance must submit a lease application within 14 days from the effective date of this ordinance. At a City Council meeting held no more than 45 days after the deadline for applications, the City Manager shall submit all timely and complete applications, along with the City Manager's recommendation for approval, denial, and conditions of the applications, to City Council.
- B.** An application for direct negotiation shall be submitted on the same form as an application for lease renewal or approval under WMC 3.38.480 or another form that the City Manager makes available on the Effective Date of this ordinance.
- C.** City Council shall consider the following factors when determining whether to approve an application for direct negotiation under this ordinance:
 - 1. Applicant's past capital investment and binding commitment to future capital investment on the property;
 - 2. Applicant'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 direct negotiation is permitted and a new lease is executed without the acceptance of other lease applications or competitive bidding;
 - 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 public; and

7. Other social, policy, and economic considerations as determined by City Council.

D. City Council may consider other factors so long as those factors are applicable to supporting legitimate public interests and not solely the personal interest of the applicant.

E. City Council may approve an application, deny the application, or approve the application with conditions. No applicant has a right to a lease of City property. No applicant has an existing property interest in the approval of an application for direct negotiation. Council's consideration of an application for direct negotiations is based on the best interest of the public and thus constitutes a legislative, not quasi-judicial consideration. City Council may not approve an application for direct negotiation unless it finds that doing so serves a legitimate public purpose and all of the criteria weigh in favor of granting the application. City Council may impose any conditions on approval that City Council finds are necessary to serve the public interest.

F. An application for approval of direct negotiations under this ordinance shall be subject to all other requirements under Chapter 3.38 of the Whittier Municipal Code and all other applicable federal, state, and local laws.

G. There is no right to appeal a denial of an application for direct negotiation.

Section 4. Classification. This Ordinance is not permanent and is a non-code ordinance.

Section 5. Effective Date. This ordinance shall become effective upon adoption and shall cease to be in effect on January 1, 2027.

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)