

Sponsored by: Wilde
Introduction Date: June 16, 2026
1st Public Hearing: _____
2nd Public Hearing/Enactment Date: _____

**CITY OF WHITTIER, ALASKA
ORDINANCE 2026-003**

**AN ORDINANCE OF THE CITY COUNCIL OF WHITTIER, ALASKA AMENDING
CHAPTER 10.30 OF THE WHITTIER MUNICIPAL CODE TO CLARIFY THE
“COMMERCIAL RECREATIONAL GROUND PASSENGER FEE” IS A FEE AND
NOT A TOLL ON ROADS OWNED OR MAINTAINED BY THE FEDERAL
GOVERNMENT OR THE STATE OF ALASKA**

WHEREAS, the City of Whittier, Alaska (the “City”) adopted a Commercial Recreational Ground Passenger Fee on November 19, 2024, via Ordinance 2024-005 with an implementation date of January 1, 2026; and

WHEREAS, amending Ordinance 2026-001 was adopted on February 17, 2026, which clarified reporting procedures and timelines for businesses registered and subject to the fee; and

WHEREAS, on April 24, 2026, former acting Attorney General Cox sent a letter to the City demanding that the City repeal its commercial recreational ground passenger fee because the State of Alaska feared the fee constituted a toll and violated the 1997 toll agreement between the State of Alaska and the Federal Highway Administration; and

WHEREAS, the commercial recreational ground passenger fee does not in any way charge a fee for the privilege of using any road, much less a federal or State road, and instead imposes a fee for services and facilities provided to passengers of recreational commercial ground transportation vehicles and the industry itself; and

WHEREAS, the City hopes to retain language in the Code that allows the fee to be used for improvements to City-maintained roads that are not federally aided or State-owned or maintained roads that are frequented by recreational commercial ground transportation passengers and vehicles while making it expressly clear that the fee is not a toll,

NOW, THEREFORE, THE WHITTIER CITY COUNCIL ORDAINS:

Section 1. Whittier Municipal Code Chapter 10.30 COMMERCIAL RECREATIONAL GROUND PASSENGER FEES is hereby amended as follows:

CHAPTER 10.30 COMMERCIAL RECREATIONAL GROUND PASSENGER FEE

10.30.010 Establishment of commercial recreational ground passenger fee.

Commercial recreational ground passengers in the city shall be charged a flat per-passenger fee. Such fees shall be used to offset costs incurred by the city in operating, equipping and maintaining city-owned facilities and providing ~~its capital assets, roads, and public infrastructure to provide related services~~ to those offering commercial recreational services in the city and their passengers who visit the city, and to mitigate impacts of increased utilization of city services and resources by commercial recreational businesses and their passengers. **No fees shall be used to operate, equip, finance or maintain State or Federal-owned or maintained State or federal roads or related infrastructure nor shall the fee be charged for the privilege of the use of any State or federally owned or maintained road.**

10.30.020 Imposition of commercial recreational ground passenger fee.

- A. Beginning January 1, 2026, upon each entry or departure from the city by ground conveyance, including by rail, a commercial recreational ground passenger fee of \$ \$5.00 per passenger shall be assessed.
- B. The commercial recreational *ground* passenger fee shall be assessed on commercial recreational ground passengers being delivered to or from a cruise ship that is exempt from the commercial recreational *waterborne* passenger fee, as well as to or from other Whittier destinations.

10.30.030 Registration.

To facilitate the timely and efficient payment of the commercial recreational ground passenger fee, the owner, operator, or agent of any commercial recreation transportation business operating in Whittier shall register the following information on an application properly executed by a person authorized to bind the applicant under this chapter for each name under which the applicant does business in the City of Whittier. The application shall state the full name of the applicant and each business name under which the applicant will do business and:

- A. The name of the person in charge, physical and mailing address, e-mail address, telephone number, and facsimile number for:
 1. The office or agent for the business that is located within the City of Whittier;
 2. The office or agent within Alaska that is responsible for the administration of the provision of transportation services into or out of the City of Whittier;
 3. The headquarters, central or other office to which the office under subsection (A)(2) of this section reports.
- B. A description of the type of commercial recreation services that are or will be provided within Whittier city limits, including the approximate passenger capacity of the conveyances that will be used, the estimated number of passengers during the calendar year for each mode or different form of conveyance that will be used by the business, and a description of the relationship of the applicant to any other commercial recreation business with respect to passengers of the applicant.

CITY OF WHITTIER, ALASKA

ORDINANCE 2026-003

Page 3 of 10

- 82 C. A copy of the current Alaska business license issued to the business.
- 83 D. A copy of the current City of Whittier business license issued to the business.
- 84 E. The name, title, physical and mailing addresses, e-mail address, telephone and facsimile
85 numbers for the following persons:
- 86 1. The chief executive officer;
 - 87 2. The chief financial officer;
 - 88 3. The controller, comptroller, or treasurer, if other than the chief financial officer;
 - 89 4. The person or persons who will be primarily responsible for filing the return, verifying its
90 accuracy and paying the tax under this chapter; and
 - 91 5. Each other person who is authorized to pay or to require others within the business to pay
92 the fee under this chapter to the city.

93 **10.30.040 Update of information.**

94 Upon the sale of a registered business, a change of the name of the business, a change in the
95 form of the business or a change in the address of any office as last provided to the city, a registered
96 commercial services business shall promptly provide, in writing, notice to the finance director of
97 such changes, with an update of the information required for registration under section
98 10.30.030(A), (B), (C) and (E).

99 **10.30.050 Calculation of fees.**

- 100 A. The total amount of commercial recreational ground passenger fees shall be calculated based
101 on the number of passengers reported and certified by the registered business as being present
102 on the passenger manifest upon arrival and upon departure.

103 **10.30.060 Payment of fees.**

104 Commercial Recreational Passenger Fees shall be collected and remitted by the owner,
105 operator or agent of the commercial recreational business to the city quarterly in accordance with
106 payment procedures set forth by the city manager. Commercial recreational businesses who
107 become delinquent in their remittance of the commercial ground passenger fees may be required
108 to submit on a monthly basis at the direction of the city manager. Where commercial recreational
109 businesses are operating in tandem, one business can collect and remit ground passenger fees and
110 waterborne passenger fees, as may be due pursuant to chapter 12.32 of this code, on behalf of other
111 operators so long as the operators certify the accuracy of the passenger counts relied upon in
112 calculating the fees. Such payment procedures shall provide for the payment of penalties and
113 interest as set forth in section 10.30.070.

114 **10.30.070 Penalties and interest.**

- 115 A. Interest shall accrue on all delinquent fees at a rate of 15 percent per annum until paid, and
116 shall accrue on a penalty only after a penalty or part thereof has been unpaid for 30 days
117 following the date of written notice of the penalty due.
- 118 B. For any fee payment that is not received before the delinquency date or which is less than the
119 amount owed, a penalty of five percent of the fees due but not timely received shall accrue, to
120 which there shall be added an amount equal to five percent of the delinquent amount for each

CITY OF WHITTIER, ALASKA

ORDINANCE 2026-003

Page 4 of 10

month or part of a month during which any delinquency in the payment continues. The minimum penalty for a delinquent payment of any amount is \$100.00.

C. A penalty of \$100.00 shall be paid by a registered business that fails to provide the information requested under sections 10.30.030 or 10.30.040 within 30 days of the date of the written request from the city.

D. A registered business that fails to make records available within 15 days of the date of the written request for such records pursuant to section 10.30.140, or such later time as the city may specify or agree shall pay a penalty of \$300.00 plus an amount equal to the delinquent fees found to be owing as a result of the examination or audit of such records. The penalty under this section is in addition to the penalty for delinquent fees, the additional fees found to be owing as a result of the examination or audit of the records and the interest on such delinquent fees.

E. Upon receipt of any payment for any amount that may be due under this chapter, and notwithstanding any designation of the purpose or statement of intended application of such payment by the registered business submitting payment, the city shall apply such amount first to the oldest penalties that are due until all penalties are paid; it shall then apply the balance to the oldest interest due, until all interest is paid; it shall then apply the balance to the oldest principal due until all fees are paid.

10.30.080 Liens and other costs.

A. The amount of delinquent fees and penalties shall constitute a lien on real and personal property of the commercial recreation business.

B. The city may also collect from the owner, operator or agent of the commercial recreation business all expenses that relate to the city's effort to collect, including but not limited to the costs of collection; attorney's fees and costs; recorder's fees; and court costs.

C. Prior to filing a lien, the city shall cause an additional written notice of intent to file a lien to be mailed by certified mail to the last known address of the owing party. Neither the failure to mail such notice, nor the failure of the owing party to receive such notice invalidates a lien filed by the city.

10.30.090 Civil and criminal actions, payment agreements.

A. Nothing in this chapter shall be construed to prevent the city from filing and maintaining a civil action to recover any commercial recreational passenger fees, penalties, and interest due.

B. The finance director may enter into an agreement secured by a confession of judgment or a deed of trust on property with sufficient equity to cover the liability for delinquent fees, interest, and penalties on such payment terms as the finance director finds reasonable; provided, that the terms shall require full payment of all obligations within a maximum period of 24 months from entry of such an agreement, unless a shorter term is required by other provisions of this Code, in which case those provisions shall be followed. The finance director may not enter a repayment agreement with a commercial services business that has been involved in a repayment agreement under this subsection or chapter 3.08 of this code within

the prior five years, or whose principal members have been subject to such an agreement within the prior five years, unless otherwise provided in this Code.

- C. A person convicted of a violation of a provision of this chapter shall be subject to a fine of not more than \$500.00; provided, for a subsequent conviction for a violation of any provision of this chapter that occurs within three years of a prior conviction for a violation of any provision of this chapter, the person shall be subject to a fine of not more than \$1,000.00 and imprisonment for not more than 90 days. Each day upon which a violation continues is a separate violation. The failure or refusal of a person to comply with an order of the finance administrator specifically authorized by this chapter is a violation of a provision of this chapter.

10.30.100 Administration and enforcement.

- A. The finance director may adopt policies, procedures, rules and/or regulations to administer and enforce this chapter.
- B. The finance director shall take all steps necessary and appropriate to administer and enforce this chapter including but not limited to establishing policies, procedures, rules and/or regulations to administer and enforce this chapter, and conducting audits or examinations of the records and books of owners, operators, or agents of commercial recreational conveyances.

10.30.110 Enforcement authority, request for administrative rulings.

- A. The finance director shall enforce the reporting and the fee, penalty and interest payment requirements imposed under this chapter.
- B. Any person who may be obligated to pay the fees under this chapter, or any city official, may apply to the finance director for a determination on the application of this chapter to an actual fact situation. The finance director, with such review and assistance as may be required from the city attorney, shall provide a written interpretation of the applicability of this chapter to the fact situation described. The city shall be bound by a written determination issued under this subsection (B), but only with respect to the person to whom the interpretation is issued, and only for so long as such interpretation has not been revoked, withdrawn or modified and none of the code sections upon which the interpretation is based have been amended or repealed. With the approval of the city attorney, the tax administrator may issue generally applicable rulings and interpretations which shall be effective until revoked, withdrawn or modified and none of the Code sections upon which the ruling or interpretation is based have been amended or repealed.

10.30.120 Protest of fees.

A commercial recreation business may protest the payment of the commercial recreational passenger ground fees charged under this chapter by paying the fees within the time established for payment of the fees and providing the city manager with a written statement of protest specifying the amount of fees paid and the basis for the protest. The city manager's decision regarding the protest shall be in writing and shall be a final decision. Such decision may be appealed to the superior court in the third judicial district for the state of Alaska at Anchorage, Alaska.

10.30.130 Estimate of fees due, audit.

In the event that the city is unable to ascertain the amount of commercial recreational ground passenger fees due because a commercial recreation business has failed to keep accurate records, to allow inspection of records, has failed to submit payment, or has falsified records, then the city shall estimate the fee due based upon any information available to it. The estimate, including interest and penalties due to the date of the estimate, shall become final for the purpose of determining liability of the commercial recreation business 30 calendar days from the date the city mails notice of the estimate to the business unless the business earlier submits payment. If the city audits a registered business following the filing of an estimate under this section by the city, and the audit shows that more fees are due than was set out in the city's estimate, the registered business shall be liable for an audit fee equal to the cost to the city of the audit, in addition to any other penalties or fees due under this chapter.

10.30.140 Audit—Investigation authority, consent to inspection of records.

A. For the purpose of ascertaining the correctness of fees due the finance director may hold investigations and hearings concerning any matters or records of any registered business, may require the attendance of any registered business, or any officer or employee of a registered business at the hearing and may require production of all relevant business records including but not limited to passenger manifests.

B. A commercial recreation business that registers with the city under this chapter consents to the inspection of its business records, reports, audits and other records. Upon the written request of the finance director or the finance director's agent, a registered business shall provide all relevant, requested records for examination in Whittier, Alaska, within 15 calendar days or such longer time as may be specified in the written request or as may be agreed upon by the city and the registered business. The city may agree to the production of records at a place other than Whittier and may condition such agreement upon the registered business advancing or reimbursing all expenses, including additional personnel, auditor or investigator expenses, incurred or to be incurred because of the production at a different place.

10.30.150 Confidentiality, exceptions.

A. Invoices paid in full timely and all data obtained in relation to payments from registered businesses are confidential, and such data obtained therefrom shall be kept from inspection by all private persons. Nothing contained in this section shall be construed to prohibit the audit and investigation by the city as provided under this chapter or of the books and records of any registered business required to pay commercial recreational passenger fees under this chapter.

B. Nothing contained in this section shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any data or report filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers or registered businesses.

C. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any who fails to pay in full all fees due by the date required under this chapter. Entry into any agreement whether pursuant to the

provisions of this chapter or otherwise shall not act as a prohibition to disclosure of the records of a registered business as otherwise provided in this chapter.

D. A prospective lessee or purchaser of an accepted business or interest in such business may inquire as to the fee obligations of such business and may receive such confidential information as may be authorized for release in a release of information request signed by the owner or chief executive officer of the registered business.

E. Notwithstanding any other provision of this section, the city may disclose any information, data or records of a registered business that are in the possession of the city in any civil or criminal action brought by the city in the enforcement of any provision of this chapter.

10.30.160 Transfer of business, successor liability to the city and final accounting.

A. Any person acquiring an ownership interest in a registered commercial recreation services business or the accounts receivable of a registered business, whether by purchase, assignment, foreclosure, conveyance in lieu of foreclosure, relinquishment, or otherwise, shall be liable for the payment of fees, penalties and interest accrued, accruing, and unpaid to the city on account of the operation of the business by the former owner, owners or assigns. Each person acquiring any interest in an accepted business or the accounts receivable of such a business shall request a statement from the city of the actual and estimated amount of current and past due commercial recreational passenger fees, penalties and interest owed by the business as of the date of the request. The person acquiring the business or accounts receivable shall withhold from the acquisition price and pay over to the city the current fees due and the past due fees, interest and penalty.

B. The liability of a purchaser or other person acquiring a registered business or the accounts receivable of a registered business for outstanding fees, penalties and interest accrued under this chapter and unpaid by the former owner through the date of the request from the purchaser shall be limited to an amount stated in writing by the city in response to a request from the purchaser for a statement of commercial recreational passenger fee liability.

C. Fifteen days prior to the sale, lease, or other disposition, or change in ownership interest, other than a transfer or outstanding shares of stock, or upon incorporation of a registered business, the registered business seller shall file a notice with the city together with information identifying the name and address of each person or entity involved in the change, the nature of the change, the effective date of the change, any unpaid fees due under this chapter and an estimate of any additional liability that will accrue by the effective date of the change.

10.30.170 Records, recordkeeping required, loss of records.

A. Every business submitting the fees established in this chapter shall keep and preserve suitable records of all commercial recreational services provided, purchased or sold and such other records, documents, books or accounts as may be necessary to determine the amounts owed for passenger fees. Every registered business shall preserve suitable records of relevant activities and transactions for a period of six years from the date of the submittal of fees accounting information for the period for which the fees were owing and all such other books,

280 invoices, manifests and other records as may be necessary to accurately determine the amount
281 of fees which the registered business was obliged to pay under this chapter.

- 282 B. A registered business shall immediately notify the city of any fire, theft or other casualty which
283 prevents compliance with this chapter. The casualty constitutes a defense to any penalty
284 provided in this chapter if determined to be the proximate cause of the failure to comply for a
285 given reporting period, but does not excuse the registered business from liability for fees and
286 interest and for penalty otherwise due. Accidental loss of funds or records is not a defense
287 against the liability for fees required to be paid, interest and penalties under this chapter.

288 **10.30.180 Failure to keep adequate records.**

- 289 A. No person may falsify or misrepresent any fact or matter in any statement, application, or other
290 document submitted to the city under this chapter.
- 291 B. No person may falsify any record required to be kept under this chapter. No person may submit
292 or provide falsified or misleading records or other documents to the city or its auditor.
- 293 C. A feepayer may not refuse to allow inspection at reasonable times of records required by this
294 chapter to be kept by the registered business.
- 295 D. Misrepresentation of a fact or a matter occurs and documents are misleading when the
296 representation or information is presented as complete with respect to the subject but
297 additional, undisclosed, relevant facts or information known, or that should be known, to the
298 registered business would cause the person examining the representation or document to
299 understand or interpret the representation, information or document in a manner less favorable
300 to the registered business.

301 **10.30.190 Advance payment of commercial recreational ground passenger fees.**

302 A commercial recreational business may pay the fees imposed in this chapter before the
303 fees would otherwise be due and on an annual or seasonal basis in accordance with the terms,
304 covenants and conditions set forth in a written agreement approved by the city council.

305 **10.30.200 Use of fees.**

306 The fees collected from ground passengers under this chapter shall be deposited in the General
307 Fund and/or General Major Repair and Replacement Fund for the construction, maintenance, and
308 provision of City-owned capital assets, infrastructure, and services benefitting the visitors who pay
309 the fee.

310 **10.30.220 Definitions.**

311 Unless the context clearly indicates that a different meaning is intended, the following words
312 and phrases when used in this chapter shall have the meanings set out in this section:

313 *Calendar year* means the year beginning January 1 and ending on December 31 of each year.

314 *City* means the City of Whittier in the geographic sense or the administration of the City of
315 Whittier, as appropriate to the context.

316 *Commercial Recreational Business* means any person who provides commercial recreational
317 services.

318 *Commercial Recreational Ground Passenger* means an individual who is moved aboard a
319 conveyance for compensation by land, including rail transportation, whether the transportation is
320 provided pursuant to a pass, coupon, cash, credit, ticket, voucher, or other instrument, agreement
321 or understanding that entitles the individual to be provided commercial recreational services
322 without regard to the cost to the individual of the instrument, agreement or understanding entitling
323 the individual to the service. The term does not include the owner or operator of the conveyance,
324 crew members, drivers, tour guides or others who are employed by the commercial recreational
325 business and are on duty while being transported with passengers.

326 *Commercial Recreational Services* means any service involving the movement of a passenger
327 from one point to another by means of a conveyance, ordinarily for compensation. It includes
328 tours, adventures, shuttles, wildlife and nature viewing trips and other activities in which the
329 movement of passengers is involved. It includes trips in human-powered conveyances conducted
330 by a paid guide, without regard to the ownership of the conveyances, but does not include trips
331 involving conveyances owned by a business and chartered or rented to others if no guide, crew,
332 agent, or employee of the conveyance owner is present to operate the conveyance or to provide the
333 charter party or renter with advice or assistance in operating or navigating the conveyance.

334 *Compensation* means payment to a conveyance owner or operator whether by charter or
335 through fares paid by or on behalf of passengers.

336 *Conveyance* means any contrivance designed or used for the transportation of individuals
337 from one point to another and includes rail cars, rail flatbeds, high rail, motor vehicles, including
338 automobiles, passenger vans, passenger buses, motorcycles, motorized scooters and bikes, other
339 two-, three-, and four-wheeled vehicles, motorized track-driven vehicles, sleds, trailers and other
340 towed vehicles used for transportation of passengers and other vehicles used to transport
341 passengers whether motor-, human- or animal-powered.

342 *Person* means and includes individuals and every organization or entity recognized in law
343 and every group of persons acting as a unit.

344 **Section 2. Classification.** This ordinance is a permanent code ordinance.
345

346 **Section 3. Severability.** If any provision of this ordinance or any application thereof to any
347 person or circumstances is held invalid, the remainder of this ordinance and the application to other
348 persons or circumstances shall not be affected thereby.
349

350 **Section 4. Effective Date.** This ordinance shall become effective immediately upon
351 adoption.
352
353
354
355
356

CITY OF WHITTIER, ALASKA

ORDINANCE 2026-003

Page 10 of 10

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)