

**CITY OF WHITTIER, ALASKA
ORDINANCE #27-2015**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA
AMENDING WHITTIER MUNICIPAL CODE CHAPTER 12.18 TO MAKE THE
REPORTING OF PASSENGER USER FEES AND THE PASSENGER TRANSPORTATION
BUSINESS TAX COINCIDE.**

THE WHITTIER CITY COUNCIL ORDAINS;

Section 1: Classification. This ordinance is general and permanent in nature and shall become part of the Whittier Municipal Code.

Section 2: Amendment of subsection 12.18.020(A). Section 12.18.020(A) of the Whittier Municipal Code is hereby amended to read as follows [overstruck words are deleted, new language is underlined]:

A. A passenger user fee of \$1.00 shall be assessed for every ~~full~~-fare passenger loading or unloading from all commercial vessels from any Whittier dock facility within jurisdictional waters of the City of Whittier. The passenger user fee is applicable to all passengers and is assessed once for each ticketed transaction regardless of whether the fare is for a one-way or round-trip excursion. Each passenger boarding, departing or remaining on the vessel is subject to the fee. The passenger user fee shall be calculated based upon the Whittier passenger manifest for the vessel.

Section 3: Amendment of Subsection 12.18.040. Section 12.18.050 of the Whittier Municipal Code is hereby amended to read as follows [overstruck words are deleted, new language is underlined]:

A. Responsibility of Vessel Owner/Agent – Manifest/Return Form. The owner or agent of the commercial vessel using a Whittier dock facility shall submit on forms furnished by the City, and remit the passenger user fee quarterly to the City, a passenger manifest stating the number of passengers on board, departing, or boarding the vessel during its stay within the jurisdictional waters of the City per vessel per Month sailing no later than the last business day of the month following the end of the quarter for which the passenger user fee is due.~~30 days after the vessel departs the jurisdictional waters of the City of Whittier.~~ Each form shall set forth the following:

1. Total number of passengers per vessel per month; ~~Number of passengers per vessel, per sailing~~ Per;
2. The total amount of passenger user fee for loading or unloading of each passenger per vessel, per month; ~~sailing, and the amount of administrative fee withheld pursuant to this chapter;~~
3. Such other or different information and supporting papers as the City Manager or his/her duly authorized agents may require by ordinance and/or rule.

~~BE.~~ Every owner or agent shall sign and transmit the above referenced return, together with the passenger user fees, to the City Manager's office or his/her duly authorized agents on or before the aforementioned date. If no such passenger user fees are applicable during such calendar quarter, the owner or agent shall nevertheless make a return to so state.

CB. Presumed Passenger Manifest. In the event the vessel owner or agent fails to properly and timely submit the passenger manifest, the City shall invoice the vessel owner or agent a passenger user fee based upon the known maximum passenger capacity for the vessel or a vessel of similar type. In the absence of such information, the City may use other reliable information as the basis for determining the passenger user fee.

DC. Information for Determining Fee. The burden shall be on the vessel owner or agent to provide the correct information for determining the fee. The information used by the City shall be deemed conclusive if the vessel owner or agent fails to provide the correct information with payment of the correct amount within 30 days of invoice.

~~D. Responsibility of Vessel Owner/Agent—Return Form.~~ The owner or agent of the vessel shall, no within days following the last day of each calendar quarter, make out a return, on forms furnished by the City, for the preceding quarter and remit the passenger user fee. Each form shall set forth the following:

- ~~1. Number of passengers per vessel, per sailing;~~
- ~~2. The total amount of passenger user fee for loading or unloading of each passenger per vessel, per sailing, and the amount of administrative fee withheld pursuant to this chapter;~~
- ~~3. Such other or different information and supporting papers as the City Manager may require by ordinance and/or rule.~~

~~E. Every owner or agent shall sign and transmit the above referenced return, together with the passenger user fees, to the City Manager's office on or before the aforementioned date. If no such passenger user fees are applicable during such calendar quarter, the owner or agent shall nevertheless make a return to so state.~~

~~F. Every owner or agent may retain four percent of all passenger user fees collected as an administrative fee for implementing this chapter if payment and return form are remitted by the aforementioned date and owner or agent is in good standing.~~

Section 4: **Amendment of Subsection 12.18.050.** Section 12.18.050 of the Whittier Municipal Code is hereby amended to read as follows [overstruck words are deleted, new language is underlined]:

The City Manager or his/her duly authorized agents shall have the authority to adopt suitable rules providing for the application and interpretation of this chapter, and rules for providing methods and forms for reporting and collecting of the passenger user fee imposed in this chapter.

Section 5: **Amendment of Subsection 12.18.060(A and C).** Section 12.18.060(A and C) of the Whittier Municipal Code is hereby amended to read as follows [overstruck words are deleted, new language is underlined]:

A. All forms filed with the City Manager's office or his/her duly authorized agents for the purposes of complying with the terms of this chapter, and all data obtained from such forms, are declared to be confidential, and such forms and data outlined therefrom shall be kept from inspection of all persons

except the City Council, City Manager, Harbormaster and the City Attorney; provided nevertheless, upon the advice of the City Attorney, the Manager may present to necessary individuals any form or data obtained therefrom providing the purpose of such presentation is primarily for bringing administrative and/or legal action against the person or entity whose passenger user fee obligation under this chapter is in question.

C. It shall be the duty of the City Manager or his/her duly authorized agents to safely keep the forms referred to in this chapter, and all data taken therefrom, secure from public inspection and secure from all private inspection except as in this chapter provided; and the City Manager or his/her duly authorized agents may, after the expiration of three years from the date any such form has been filed, destroy the form.

Section 6: Amendment of Subsection 12.18.080. Section 12.18.080 of the Whittier Municipal Code is hereby amended to read as follows [overstruck words are deleted, new language is underlined]:

12.18.080 Filings to be continuous —~~Seasonal operations.~~

A person or entity who has filed a passenger user fee return will be presumed to be making successive quarterly returns unless he/she files a return showing termination of use of Whittier dock facilities. ~~If the operator of a commercial vessel is in good standing with the City, and it operates only on a seasonal basis, it may discontinue filing returns for the period that the operation is shut down, but only in accordance with such rules as adopted by the City Manager.~~

Section 7: Amendment of Subsection 12.18.090. Section 12.18.090 of the Whittier Municipal Code is hereby amended to read as follows [overstruck words are deleted, new language is underlined]:

A. A passenger user fee remittance is delinquent when not received by the City no later than the last business day of the month following the end of the quarter for which the user fees are due. ~~within 30 days from the date of invoice.~~ A penalty equal to five percent of the delinquent passenger user fee shall be added to the passenger user fee for the first 30 days, or any part thereof, and an additional five percent shall be added to the passenger user fee for each additional 30-day period, or fraction thereof, of delinquency, until a total penalty of 15 percent is accrued. The penalty shall be assessed and collected in the same manner as the passenger fee is assessed and collected.

B. In addition to the penalty provided in subsection (A) of this section, interest at the statutory rate on a delinquent passenger user fee from the date of delinquency until paid shall accrue and be collected in the same manner as the delinquent passenger user fee is collected.

C. **Written Demand and Additional Procedures.** If the vessel operator fails to file a passenger manifest in the form of a return form, and/or or return form, ~~or~~ pay the passenger user fee in accordance with the terms of this chapter, the City Manager or his/her duly authorized agents shall ~~twice~~ ~~twice shall~~ make written demand upon the vessel operator, mailed to his/her last known address, for submission of the manifest, return form and/or passenger user fee remittance. In the event of noncompliance with the demand, the City Manager or his/her duly authorized agents may do any or all of the following things:

1. Civil Action. Make a passenger user fee assessment against the vessel owner or agent, with the assessment based upon an estimate of the level of operations at Whittier dock facilities during the period, and institute civil action to recover the amount of the passenger user fee, plus penalties and interest. The estimate of the passenger user fee shall be derived from past payments or returns, the general economic level of business in the community, and presumed passenger manifest or payments from comparable operations;


2. Hearing. Notify the vessel owner or agent in writing by certified mail or personal delivery in writing that a hearing will be held to determine the passenger user fee liability of the individual or entity at a specified time and place not less than 15 days after the date of the notice. The vessel owner or agent shall present himself/herself at the hearing, and make available for inspection his books, records, papers and other memoranda pertaining to operations sufficient to enable the City to make a determination whether a passenger fee is due. A failure to respond following written notice to appear shall be deemed an admission as to the City's estimate of the amount of passenger fee owed to the City.

Section 8: **Effective Date.** This ordinance is effective July 1, 2015.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE WHITTIER CITY COUNCIL THIS 21 DAY OF April, 2015.

Introduced by: City Manager
Introduction date: 21 April 2015
Public Hearing:

ATTEST:


Jennifer Rogers
Acting City Clerk


Daniel Blair
Mayor

Ayes: 5
Nays: 0
Absent: 2
Abstain: 0