



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 336-1490 • Fax (907) 472-2404

**WHITTIER CITY COUNCIL
SPECIAL MEETING
TUESDAY, JUNE 26, 2018
AT 6:00 PM
COUNCIL CHAMBERS
PUBLIC SAFETY BUILDING**

AGENDA

1. **CALL TO ORDER**
2. **OPENING CEREMONY**
3. **ROLL CALL**
4. **APPROVAL OF SPECIAL MEETING AGENDA**
5. **CITIZEN COMMENTS ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING**
6. **PRESENTATIONS**
7. **EXECUTIVE SESSION**
8. **ORDINANCE**
 - (1st Reading)

A. Ordinance #05-2018 - An Ordinance of the City of Whittier, Alaska, amending Whittier Municipal Code in regard to the Grievance Procedure by repealing the current Article XIII, Grievance Procedure, in its entirety and adopting the new Article XIII, in its entirety
 - (2nd Reading)

A. Ordinance #04-2018 - An Ordinance of the City of Whittier, Alaska, amending Whittier Municipal Code in regard to City Elections by adopting a new elections code to allow for candidates to file a declaration of candidacy to place their name on the ballot; by adopting a new title 4 Elections, Chapter 4.04 General Provisions, Chapter 4.08 Voter Qualification, and Chapter 4.12 Candidates; amending Section 2.06.010 Incorporation of State and Federal law, 2.04.030 Qualifications, and 2.04.040 Terms; and repealing sections 2.06.010 – 2.06.060 and 2.04.050 Organization meeting, all related to candidates, filing for office and related election requirements; and to allow the City a more efficient and effective way to operate City elections.
9. **RESOLUTION**
10. **UNFINISHED BUSINESS**

Army Corps. Of Engineers Request for Additional Funding Regarding Head of the Bay Project
11. **NEW BUSINESS**
12. **COUNCIL DISCUSSION**
13. **CITIZEN DISCUSSION**
14. **ADJOURNMENT**

City of Whittier Alaska
Ordinance Serial No. 05-2018

An Ordinance of the City of Whittier, Alaska, amending Whittier Municipal Code in regard to the Grievance Procedure by repealing the current Article XIII, Grievance Procedure, in its entirety and adopting the new Article XIII, in its entirety

WHEREAS the City of Whittier currently uses the City Council as a hearing body in its grievance hearings; and

WHEREAS the City of Whittier desires to change to a Hearing Officer as the arbiter of grievance hearings; and

WHEREAS in order to efficiently accomplish this change, article III, Grievance Committee, chapters 2.70.050 – 2.70.070, in the current article XIII, Grievance procedure, chapters 2.70.480 – 2.70.525, will be repealed in their entirety; and

WHEREAS it is the intent to continue to use Article XIII, currently reserved, as the Personnel code's Grievance Procedure; and

WHEREAS an updated article XIII will be adopted with language removing City Council as arbiters and adding provisions for a hearing officer.

THE WHITTIER CITY COUNCIL ORDAINS:

Section 1. Whittier Municipal Code, Title 2, Administration and Personnel, Article III, Grievance Committee, chapters 2.70.050 - 2.70.070 is repealed as follows:

~~**Article III. Grievance Committee**~~

~~**2.70.050 Establishment.**~~

~~A seven member board is established. [Ord. 537 08 § 2, 2008].~~

~~**2.70.055 Membership.**~~

~~The grievance committee shall be composed of the City Council. [Ord. 537 08 § 2, 2008].~~

~~**2.70.060 Duties.**~~

~~The duties of the grievance committee shall be:~~

~~A. To submit proposed personnel regulations to the City Council; and~~

~~B. To consider and decide any Step 4 grievances.~~

~~All members of the committee shall declare any conflict of interest and refrain from participating in board actions when a conflict exists. [Ord. 537-08 § 2, 2008].~~

~~2.70.070 Vacancies.~~

~~A vacancy occurring on the grievance committee shall be filled by temporary appointment by the Mayor. [Ord. 537-08 § 2, 2008].~~

Section 2. Whittier Municipal Code, Title 2, Administration and Personnel, Article XIII, Grievance Procedures, chapters 2.70.480-2.70.525 is repealed as follows:

Article XIII. Grievance Procedure

~~2.70.480 Policy.~~

~~It is the policy of the City to treat all employees equitably and fairly in matters affecting their employment. Each employee of the City will be provided ample opportunity to understand and resolve matters affecting employment, which the employee documents as being a violation of rules and regulations. The presentation of any grievance shall be the right of each employee without fear of reprisal. [Ord. 537-08 § 2, 2008].~~

~~2.70.485 Grievance — Defined.~~

~~A “grievance” is a written complaint by an employee or group of employees alleging a violation of a section or sections of the City code, personnel rules and regulations, or departmental rules and regulations, which pertain to the terms or conditions of employment by the City and which are within the scope of the grievance procedure established by this chapter. Employee performance evaluations are not grievable. [Ord. 537-08 § 2, 2008].~~

~~2.70.490 Discussion of a problem with supervisor.~~

~~Any employee having a problem regarding employment shall first discuss the problem with his or her immediate supervisor. If the problem is not settled and the problem is defined as a grievance, the employee has the right to present the grievance in accordance with the procedure outlined in WMC 2.70.495. [Ord. 537-08 § 2, 2008].~~

~~2.70.495 Steps.~~

~~A grievance shall be handled in the following manner:~~

~~A. Step 1. The aggrieved employee or group of employees shall present the grievance orally to the immediate supervisor within five working days of the occurrence of the event leading to the grievance, not including the day of the occurrence. The supervisor shall give an oral reply within three working days of the date of presentation of the grievance, not including the date of presentation.~~

~~B. Step 2. If the grievance is not settled in Step 1, it shall be reduced to writing, dated, and signed by the aggrieved employee and presented to the department director within five working days after the supervisor’s oral reply is given. The~~

~~department director shall reply in writing to the grievance within five working days of the date of presentation of the written grievance, not including the day of the presentation.~~

~~C. Step 3. If the grievance is not settled in Step 2, the written grievance shall be presented, along with all pertinent correspondence, records and information accumulated to date, to the City Manager. This presentation must be made within five working days after the department director's response is made, not including the day of the response. The department director shall receive a copy of the grievance. The City Manager may meet with the aggrieved employee, the immediate supervisor and the department director. The City Manager shall reply to the grievance in writing within five working days of the date of presentation of the written grievance to him or her, not including the day of presentation.~~

~~D. Step 4. If not satisfied with the City Manager's decision, an employee may request a hearing before the grievance committee.~~

~~1. The grievance committee shall conduct the hearing expeditiously and in a manner conducive to obtaining a clear understanding of the facts. The procedure shall be informal. Technical rules regarding evidence and witnesses shall not apply.~~

~~2. The grievance committee shall submit a written report of its findings and determinations to all interested parties within 10 working days after hearing testimony.~~

~~3. The decision of the grievance committee is the final step within the administrative process of the City.~~

~~E. Grievances related to an act or failure to act of a department director shall be initiated at Step 2.~~

~~F. Grievances related to an act or failure to act of the City Manager shall be initiated at Step 3. [Ord. 537-08 § 2, 2008].~~

~~2.70.500 Employee representation.~~

~~Each employee shall be afforded an opportunity to be represented at each of the above steps. At Steps 1 and/or 2 of the grievance procedure, a representative of his choice who shall be any other full time employee of the City may accompany the employee. At Steps 3 and/or 4 of the grievance procedure, a representative of his or her choice may accompany the employee. Employees shall contact and discuss their problems with their representative only during break periods, lunch hour, before or after work or at any other time when they are not on duty. Grievance hearings may be held during work hours. [Ord. 537-08 § 2, 2008].~~

~~2.70.505 Disciplinary action—Appeals.~~

~~All appeals of disciplinary action shall be initiated at Step 3 of the grievance procedure. [Ord. 537-08 § 2, 2008].~~

~~2.70.510 Violation of grievance procedure.~~

~~An employee who takes an employment problem outside the administrative structure of the City without first attempting to resolve the problem in accordance with the provisions of this article shall be subject to disciplinary action. [Ord. 537-08 § 2, 2008].~~

~~2.70.515 Time limits—Generally.~~

~~A. If grievance procedures are not initiated within the time limits established by this section, the employee shall be considered as having waived his or her right to grieve the particular violation and initiation of a grievance for the same act or omission is thereafter barred.~~

~~B. Any grievance not taken to the next step of the grievance procedure by the grievant within the time limits established by this section shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this section.~~

~~C. If the City fails to meet or answer any grievance within the time limits prescribed for such action by this section, such grievance shall automatically advance to the next step. If the City fails to meet or answer any grievance on Step 4 of the grievance procedure within the time limits prescribed for such action by this section, the grievant may consider the City's last action on the grievance the City's final step within the administrative process of the City. [Ord. 537 08 § 2, 2008].~~

~~2.70.520 Time limits—Extension.~~

~~The time limits prescribed in this section for the initiation and completion of the steps of the grievance procedure may be extended by mutual consent of the parties so involved. Likewise, any step in the grievance procedure may be eliminated by mutual content. Mutual consent shall be indicated in writing and shall be signed by all parties. [Ord. 537 08 § 2, 2008].~~

~~2.70.525 No discrimination.~~

~~No employee shall be disciplined or discriminated against in any way because of the employee's proper use of grievance procedures. [Ord. 537 08 § 2, 2008].~~

Section 3. Whittier Municipal Code, Title 2, Administration and Personnel, Article XIII, Grievance Procedure, chapters 2.70.480 – 2.70.525, is adopted to read as follows;

ARTICLE XIII - GRIEVANCE PROCEDURE

2.70.480 GENERAL POLICY

It is the policy of the City to treat all employees equitably and fairly in matters affecting their employment. Each regular full-time and regular part-time employee of the City will be provided ample opportunity to understand and resolve matters affecting employment, which the employee documents as being a violation of rules and regulations. The presentation of any grievance shall be the right of each regular full-time and regular part-time employee without fear of reprisal.

2.70.485 GRIEVANCE - DEFINED

A "grievance" is a written complaint by an employee or group of employees alleging a violation of a section or sections of City code, personnel rules and regulations, or department rules and regulations, which pertain to the terms or conditions of employment by the City and which are within the scope of the grievance procedures established by this Article. Employee evaluations are not grievable.

Temporary employees, exempt employees, volunteers, independent contractors, and any employee in his or her probationary period are not entitled to use the grievance procedures. Employees in these categories

may bring forth employment issues and/or concerns to the Director of Administration. The Director of Administration shall determine how to address issues and/or concerns, up to and including consulting with the City attorney.

2.70.490 DISCUSSION OF PROBLEM WITH SUPERVISOR

An eligible employee having a problem regarding employment shall first discuss the problem with his or her immediate supervisor. If the problem is not settled and the problem meets the definition of a "grievance" set forth in WMC 2.70.460, the employee has the right to present the grievance in accordance with the procedures outlined in WMC 2.70.470.

2.70.495 STEPS TO SUBMITTING A GRIEVANCE

A grievance shall be handled in the following manner:

- A. Step 1. The aggrieved employee, or group of employees, shall present the grievance orally to the immediate supervisor within five (5) work days of the occurrence of the event leading to the grievance, not including the day of the occurrence. The supervisor shall give an oral reply within three (3) work days of the date of presentation of the grievance, not including the day of presentation.
- B. Step 2. If the grievance is not settled in Step 1, or if the grievance involves allegations of a violation of policy by the affected employee's supervisor, the employee shall document, in detail, in writing, the specific subsection(s) of WMC 2.70 (Personnel Administration), personnel policy, department rule, or other regulation alleged to be misinterpreted, misapplied, or violated. This formal grievance shall be dated, signed, and submitted to the Department Director within five (5) work days from (i) the oral reply of the supervisor from Step 1, or (ii) of the violation which is the subject matter of the employee's grievance. The Department Director shall reply in writing to the grievance within five (5) work days of the date of presentation of the written grievance, not including the day of presentation.
- C. Step 3. If the grievance is not settled in Step 2, or if the grievance involves allegations of a violation of policy by the affected employee's Department Director, the written grievance shall be presented, along with all pertinent correspondence, records, and information accumulated to date, to the City Manager. This presentation must be made within five (5) work days after the Department Director's response is made, or within five (5) work days from the occurrence of the Department Director's violation of policy, not including the day of the response. The Department Director shall receive a copy of the grievance. The City Manager may meet with the aggrieved employee, the immediate supervisor, the Department Director, and obtain through investigation such additional information or documentation as the City Manager deems pertinent to his or her review of the grievance. The City Manager shall reply to the grievance in writing within five (5) work days of the date of presentation of the written grievance to him or her, not including the day of presentation.
- D. Step 4. If not satisfied with the City Manager's decision, an employee may request a hearing before a Hearing Officer, as provided in WMC 2.70.475
- E. Grievances related to an act, or failure to act, of the City Manager shall be initiated at Step 3.

2.70.500 HEARING OFFICER PROCEEDINGS

- A. Initiating Proceedings before a Hearing Officer. Upon receipt of the City Manager's response, or failure of the City Manager to respond, the employee shall have five (5) work days to request that the matter be appealed to a hearing officer. If the employee fails to file a written request for an appeal to a hearing officer within five (5) work days upon receipt of the City Manager's response, or City Manager's failure to respond, the employee's failure to meet the five (5) work day deadline will serve to decide the grievance in favor of the City Manager's Step 3 decision.
- B. Hearing Officer.
1. If an appeal to a hearing officer is made under Step 4, the City Manager shall send the complaint to the hearing officer selected by the city attorney. The hearing officer shall be a private attorney or an individual trained as an administrative hearing officer. The hearing officer shall not be an employee of the City of Whittier.
 2. The City Manager will furnish to the hearing officer the grievance and any official responses obtained from Steps 1 through 3 of the grievance process.
 3. The hearing officer shall schedule a hearing within ninety (90) days after the date of receiving the notice of appeal. The hearing officer may extend this deadline for good cause.
- C. Hearing Notice. The hearing official shall serve on the complainant and the City Manager a notice of hearing setting out the time and place of hearing and the schedule for any preliminary matters. This notice shall include a statement of the right to provide written evidence and oral testimony. The complainant and the City Manager shall also be informed of the right to be represented at the hearing. The hearing officer shall determine if the grievance has been proven by a preponderance of the evidence.
- D. Service by Mail and Filing. All motions or requests shall be served upon the opposing party. If service by mail is used, three (3) days will be added for response time from the date of mailing. The party must certify the date mailed on the document. If the deadline falls on a weekend or holiday, the deadline shall fall on the next City business day. All documents shall be filed with the City Manager.
- E. Hearing. All hearings shall be before the hearing officer who shall preside.
1. The hearing officer may administer oaths, hold hearings, and take testimony. The hearing officer may, on their own or in response to a motion by a party to the hearing, request the presence of witnesses and the production of records, books, and papers at the hearing.
 2. The complainant and the City Manager may each present opening statements setting out the matters they intend to prove. The complainant shall proceed first with his or her evidence and the City Manager shall follow, setting forth his or her evidence. The complainant and the City Manager may make closing arguments.
 3. The Alaska Rules of Evidence do not apply to the admission of evidence in a hearing, but the hearing officer's findings of fact must be based on reliable and relevant evidence.

4. At the conclusion of the presentation of evidence and closing arguments, the hearing officer shall consider the allegations, the evidence supporting them, and the City Manager's evidence.

F. Findings of Fact and Conclusions of Law.

1. The hearing officer shall enter findings of fact and conclusions of law no later than thirty (30) days after the conclusion of the hearing. The hearing officer shall notify the parties and their attorneys if an extension is required to permit the findings of fact and conclusions of law.
2. If the hearing officer finds that no violation has occurred, the complaint shall be dismissed.
3. If the hearing officer finds that a violation of Chapter 2.70 or a personnel policy, rule, or procedure has been violated, the hearing officer shall prepare and submit their findings of fact and conclusions of law to the City Manager, and shall include an order for remediation of the violation.
4. The findings of fact and conclusions of law are final and conclusive.
5. If the hearing officer determines that no violation has occurred, or otherwise dismisses the complaint for substantive reasons, the hearing officer may award full or partial attorney fees to the City. An award of fees to the complainant may not be made unless the City Council has appropriated funds for that purpose.
6. Appeal of Findings of Fact and Conclusions of Law and Penalty
 - i. If the hearing officer imposes a penalty with their decision, appeal of the findings of fact and conclusions of law and the penalty may be taken to the superior court in accordance with the Alaska Rules of Appellate Procedure.
 - ii. Notice of an appeal must be filed with the superior court within thirty (30) days of the imposition of the penalty.

2.70.505 EMPLOYEE REPRESENTATION

Each employee shall be afforded an opportunity to be represented at each of the above steps upon providing reasonable documentation acceptable to the City that the person is engaged as the employee's representative. Employees shall contact and discuss their problems with their representative only when they are not on duty.

2.70.510 VIOLATIONS OF GRIEVANCE PROCEDURE

The grievance procedures of this section are the sole and exclusive remedies of the employees of the City contesting violations of policies and/or disciplinary actions. An employee must fully exhaust these remedies prior to filing any lawsuits or other administrative actions.

2.70.515 TIME LIMITS – GENERALLY

- A. If grievance procedures are not initiated within the time limits established by this section, the employee shall be considered as having waived his or her right to grieve the particular violation and initiation of a grievance for the same act or omission is thereafter barred.
- B. Any grievance not taken to the next step of the grievance procedure by the grievant within the time limits established by this section shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this section.
- C. If the City fails to meet or answer any grievance within the time limits prescribed for such action by this section, such grievance shall automatically advance to the next step. If the City fails to meet or answer any grievance on Step 4 of the grievance procedure within the time limits prescribed for such action by this section, the grievant may consider the City's last action on the grievance the City's final step within the administrative process of the City. Thereafter, The grievance process may be initiated by the aggrieved employee through the hearing officer.

2.70.520 TIME LIMITS - EXTENSIONS

The time limits prescribed in this section for the initiation and completion of the steps of the grievance procedure may be extended by mutual consent of the parties so involved, or in exigent circumstances by notification of the City Manager to the aggrieved employee, if such extension is necessary to the fact finding process. Likewise, any step in the grievance procedure may be eliminated by mutual consent. Mutual consent shall be indicated in writing and shall be signed by all parties.

2.70.525 NO DISCRIMINATION

No employee shall be disciplined or discriminated against in any way because of the employee's proper use of grievance procedures.

Section 4. Classification. This Ordinance is a permanent code ordinance.

Section 5. 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 6. 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 _____, 2018.

Daniel Blair
MAYOR

ATTEST:

Naelene Matsumiya
CITY CLERK

Introduced by: Acting City Manager
1st reading: 6/___/18;
2nd reading/public hearing: 6/___/18
Ayes: ; Nays: ; Absent:

**CITY OF WHITTIER, ALASKA
ORDINANCE # 04-2018(A)**

AN ORDINANCE OF THE CITY OF WHITTIER, ALASKA, AMENDING WHITTIER MUNICIPAL CODE IN REGARD TO CITY ELECTIONS BY ADOPTING A NEW ELECTIONS CODE TO ALLOW FOR CANDIDATES TO FILE A DECLARATION OF CANDIDACY TO PLACE THEIR NAME ON THE BALLOT; BY ADOPTING A NEW TITLE 4 ELECTIONS, CHAPTER 4.04 GENERAL PROVISIONS, CHAPTER 4.08 VOTER QUALIFICATION, AND CHAPTER 4.12 CANDIDATES; AMENDING SECTION 2.06.010 INCORPORATION OF STATE AND FEDERAL LAW, 2.04.030 QUALIFICATIONS, AND 2.04.040 TERMS; AND REPEALING SECTIONS 2.06.10 – 2.06.060 AND 2.04.050 ORGANIZATION MEETING, ALL RELATED TO CANDIDATES, FILING FOR OFFICE AND RELATED ELECTION REQUIREMENTS; AND TO ALLOW THE CITY A MORE EFFICIENT AND EFFECTIVE WAY TO OPERATE CITY ELECTIONS.

WHEREAS the City of Whittier (“City”) currently uses a nominating petition to nominate a candidate for City office; and

WHEREAS it is in the best interest of the City to allow for a declaration of candidacy to nominate one’s self as a candidate for city office thereby making the process easier for the public and more efficient for the City Clerk; and

WHEREAS the currently reserved Title 4 of the Whittier Municipal Code will be utilized for the City’s elections code, and upon adoption of this ordinance, all chapters relating to general provisions of elections, voter qualifications, and candidates will be moved to Title 4; and

WHEREAS an ordinance relating to the administration of elections, voting methods, voting process, ballot counting, contest and recount will be presented to the City Council for adoption within the next 60 days; and

WHEREAS due to the amendments in this ordinance, sections in Chapter 2.04, entitled “City Council and Mayor” must also be amended; and

WHEREAS due to the amendments adopted in this ordinance, Section 2.04.050, entitled “Organization meeting” is repealed and several sections in Chapter 2.06, entitled “Elections,” are repealed as new language has been incorporated in Title 4.

THE WHITTIER CITY COUNCIL ORDAINS:

Section 1. Whittier Municipal Code, Chapter 4.04, entitled “General provisions,” is adopted to read as follows:

Chapter 4.04, General provisions.

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

Sections

<u>4.04.010</u>	<u>Definitions.</u>
<u>4.04.020</u>	<u>Powers and duties of the City Clerk.</u>
<u>4.04.030</u>	<u>Regular Elections.</u>
<u>4.04.040</u>	<u>Incorporation of State and Federal law.</u>

4.04.010 Definitions.

When used in this title, the following words and phrases shall have the meanings set forth in this section:

“Clerk” means the city clerk or any properly authorized employee or assistant to the city clerk.

4.04.020 Powers and duties of the City Clerk.

The City Clerk shall administer all city elections and shall determine whether candidates for city office are qualified in accordance with Title 4.

4.04.030 Regular Elections.

A. The date of the regular election shall be held annually on the first Tuesday of October.

B. The City Council may provide for different dates for regular election by ordinance.

4.04.040 Incorporation of State and Federal Law.

All provisions of the United States Constitution, the Alaska State Constitution, and the laws enacted pursuant to these Constitutions affecting City elections, are incorporated in this section as if fully set out in Title 4.

Section 2. Whittier Municipal Code, Chapter 4.08, entitled “Voter qualifications,” is adopted to read as follows:

Chapter 4.08, Voter qualifications.

Sections

<u>4.08.010</u>	<u>Voter qualifications.</u>
<u>4.08.020</u>	<u>Rule for determining residence of voter.</u>

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

4.08.010 Voter qualifications.

A person may vote in a city election only if the person:

- 1. Is qualified to vote in state elections under AS 15.05.010;**
- 2. Has been a resident of the City for 30 calendar days immediately preceding the election;**
- 3. Is registered to vote in state elections at a residence address within the city at least 30 calendar days before the city election at which the person seeks to vote; and**
- 4. Is not disqualified to vote under Article V of the Alaska Constitution.**

4.08.020 Rules for determining residence of voter.

A voter's residence shall be determined under the rules in AS 15.05.020.

Section 3. Whittier Municipal Code, Chapter 4.12, entitled "Candidates," is adopted to read as follows:

Chapter 4.12, Candidates.

Sections

- | | |
|------------------------|--|
| <u>4.12.010</u> | <u>Candidate qualifications.</u> |
| <u>4.12.020</u> | <u>Declaration of candidacy.</u> |
| <u>4.12.030</u> | <u>Notice of offices to be filled.</u> |
| <u>4.12.040</u> | <u>Declaration of candidacy- Procedure.</u> |
| <u>4.12.050</u> | <u>Determination of eligibility of candidate.</u> |
| <u>4.12.060</u> | <u>Corrections, amendments and withdrawal of declarations of candidacy.</u> |
| <u>4.12.070</u> | <u>Write-in candidates.</u> |

4.12.010 Candidate qualifications.

A. A candidate for Council shall have the qualifications required in Section 2.04.030, as of the date of the election.

B. A candidate shall provide proof of qualification for office as required by the Clerk.

4.12.020 Declaration of candidacy.

A. A candidate for Council shall file a declaration of candidacy under oath on a form provided by the Clerk.

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

B. The declaration of candidacy shall include:

- 1. The full legal name of the candidate, and the manner in which the candidate wants the candidate's name to appear on the ballot;**
- 2. The full residence and mailing address of the candidate;**
- 3. The contact information of the candidate;**
- 4. The office for which the candidate declares, and the date of the election at which the candidate seeks election;**
- 5. A statement that the candidate is qualified for the office as provided by law, and will serve if elected; and**
- 6. The candidate's certification before an official authorized to administer oaths that the information in the declaration of candidacy is true and accurate, with the date and the candidate's signature.**

4.12.030 Declaration of candidacy – Notices of offices to be filled.

The Clerk shall post a notice of offices to be filled, on the city's website at least 10 days before the filing period for declarations of candidacy opens. The notice shall include the manner of declaring candidacy. The notice may also be posted in other conspicuous places in the city.

4.12.040 Declaration of candidacy - Procedure.

A. Packets containing declarations of candidacy shall be available from the Clerk no later than the day the filing period opens. The packets shall remain available throughout the filing period.

B. Declarations of candidacy shall be submitted on a form provided by the Clerk. The declaration of candidacy form must be submitted as an original and shall not be submitted by facsimile or electronically. A declaration of candidacy shall be completed and filed with the Clerk no earlier than 8:00 a.m., 57 days, before a regular election, and no later than noon p.m., 46 calendar days, before a regular election.

C. A person shall not be a candidate for more than one elected city office at a time.

4.12.050 Determination of eligibility of candidate.

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

A. The Clerk shall determine whether each candidate for office is qualified as provided by law. At any time before the election the Clerk may disqualify any candidate whom the Clerk finds is not qualified.

B. Any person, including the Clerk, may question the eligibility of a candidate who has filed a declaration of candidacy by filing a complaint with the Clerk.

C. The complaint must be in writing and include the name, mailing address, phone number, contact information, signature of the person making the complaint, and a statement describing the grounds on which the candidate's eligibility is being questioned.

D. The Clerk will review only those issues in the complaint related to candidate qualifications.

E. Upon receipt of a complaint, or if the Clerk questions the eligibility of the candidate, the Clerk will send notification in writing to the candidate.

F. The Clerk shall review any evidence relevant to the candidate's qualifications, including, but not limited to, the candidate's residency, voter registration, declaration of candidacy, and any other document of public record or as required by § 4.12.010. Based on the review of the documents, the Clerk will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate.

G. If the Clerk determines the preponderance of evidence supports the eligibility of the candidate, the Clerk will issue a final determination supporting the candidate's eligibility.

H. If the Clerk determines the preponderance of evidence does not support the candidate's eligibility, notice to the candidate will identify any additional information or evidence that must be provided by the candidate. The Clerk must receive the requested information no later than three calendar days from the date of notice. The Clerk will consider any additional information provided and issue a final determination as to the candidate's eligibility no later than three calendar days from receipt of the additional information.

I. If the information requested by the Clerk in subsection H of this section is not received by the specified deadline, the Clerk will issue a final determination regarding the candidate's eligibility based on the information initially reviewed.

J. The Clerk will send notice of final determination in writing to the person making the complaint, if applicable, and to the candidate. The determination of the Clerk is final.

4.12.060 Corrections, amendments and withdrawal of declarations of candidacy.

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

A. A candidate may correct or amend a declaration of candidacy at any time during the period for filing declarations of candidacy, by written notice to the Clerk signed by the candidate. After the filing period has closed, no declaration of candidacy may be corrected or amended.

B. A candidate may submit to the Clerk a new declaration of candidacy for a different office or seat, at any time during the period for filing declarations of candidacy, but only after filing with the Clerk a written withdrawal of the former declaration of candidacy, signed by the candidate.

C. A person may withdraw as a candidate for office only by filing with the Clerk a written withdrawal of the declaration of candidacy signed by the candidate no later than noon on the Friday following the closing of the candidacy filing period.

04.12.070 Write-in candidates – Notice of intent required.

Votes for a write-in candidate shall not be counted unless that candidate has filed a letter of intent not earlier than the first business day following the last day of the filing period for declarations of candidacy and not later than 14 days prior to the date of the election with the City Clerk stating:

1. The full name of the candidate;
2. The full residence and mailing address of the candidate and the date on which residency at that address began;
3. The day and evening telephone numbers of the candidate;
4. The office, and seat, if applicable, to which the candidate seeks election;
5. The name of the candidate as the candidate wishes it to be written on the ballot by the voter;
6. The date of the election at which the candidate seeks election;
7. A certification by the candidate that the candidate:
 - a. Is a qualified voter and elector of the City of Whittier;
 - b. Is a resident of the City;
 - c. Qualifies or shall qualify, as of the date of the election, for the office the candidate seeks;
 - d. Shall serve if elected;

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e. Intends to remain a resident of the City for at least one year after the date of the election; and

f. Is not a candidate for any other office to be voted on in the election;

8. A certification by the candidate that the information in the letter of intent is true and accurate; and

9. The date and signature of the candidate seeking office.

Section 4. Whittier Municipal Code, Chapter 2.04, entitled “City council and mayor,” is amended to read as follows:

2.04.030 Qualifications of council members.

A. ~~The Council members must be qualified electors of the City, and must have been domiciled in the City or territory annexed to the City for at least one year prior to the date of filing a nomination petition for election to Council.~~ A person is eligible to be a council members if the person:

1. Is registered and in all other respects qualified to vote in city elections as provided in Section 4.08.010; and

2. Has been a resident of the City or territory annexed to the City for at least one year immediately prior to the election or appointment to fill a vacancy.

B. A Council member who ceases to be eligible to be a City voter ~~shall~~ immediately forfeits his office and no council action is needed.

C. ~~All persons filing nominating petitions for City Council seats must file a letter of intent stating that they will remain in the City for a period of at least one year.~~

D. ~~C.~~ If, for any reason, a Council member, no longer physically resides in moves away from the City, ~~or territory annexed to the City,~~ the Council shall immediately declare his or her seat vacant.

E. E. The definition of “domicile” for the purpose of this section shall be: that place where a person’s true, fixed and permanent home, to which the person, when absent, has the intent of returning.

2.04.040 ~~Election~~ – City Council- Terms.

~~An election shall be held annually on the first Tuesday of October, to choose the members of the City Council. The voters shall elect a Council member to a designated~~

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~~seat for a three-year term and until his or her successor is elected and has qualified. The terms of the designated seats shall be staggered on a three-year cycle as follows:~~

~~A. The terms for seats “,” “C” and “G” shall expire in one year. City Council members shall file for and be elected to seats designated A, B, C, D, E, F and G. A council member’s term shall be three years.~~

~~B. The terms for seats “E” and “F” shall expire in the second year. A qualified candidate succeeds to the candidate’s elected office at the next regular council meeting following the certification of election and upon taking an oath of office.~~

~~C. The terms for seats “A” and “D” shall expire on the third year. A person appointed to fill a vacated seat serves until the next regular election, when a successor shall be elected to serve the balance of the term.~~

~~The regular term of office begins at the organizational meeting on the next regular meeting more than seven days following the election.~~

~~2.04.050 Organizational meetings.~~

~~At the next regular meeting, more than seven days following the election, the new Council members shall be sworn in and seated.~~

Section 5. Whittier Municipal Code, Chapter 2.06.010 through Chapter 2.06.070, is repealed:

~~2.06.010 Incorporation of State and Federal law.~~

~~All provisions of the Constitution of the United States, the Constitution of the State of Alaska, and any laws enacted pursuant to said constitutions affecting City elections, are incorporated in this chapter as if fully set out herein.~~

~~2.06.020 Candidate nomination — Nomination by petition.~~

~~Nominations for elective officers shall be made only by petition signed by 10 registered voters who must be qualified electors of the City, domiciled in the City or territory annexed to the City for at least 30 days prior to the date of signing the petition.~~

~~2.06.025 Candidate nomination — Identification of petitioners.~~

~~Each registered voter signing a nomination petition shall, in addition thereto, print his or her name and state his or her place of physical residence, by street and number, apartment number if applicable, lot and block, or other sufficient means, and telephone number if applicable.~~

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

~~2.06.030 Candidate nomination — Nomination petition form.~~

~~Nomination petitions shall be in substantially the following form:~~

~~NOMINATION PETITION~~

~~We, the undersigned, qualified voters of the City of Whittier, Alaska, hereby nominate and sponsor _____, whose residence is _____ in the City of Whittier, for the office of _____, Seat _____, for a term of ___ years, to be voted for at the election to be held on the ___ day of _____, _____. We, individually, certify that we are qualified electors of the city, that we are qualified to vote for a candidate for the office this candidate seeks, and that we have not signed other nominating petitions for this office exceeding in number the vacancies in this office to be filled in this election.~~

~~Signature & printed name: _____~~

~~Physical Address: (number, street, apartment, lot and block, or other location):~~

~~_____~~

~~Telephone: _____~~

~~Date: _____~~

~~Signed~~

~~1. _____~~

~~2. _____~~

~~3. _____~~

~~(spaces for a minimum of 10 signatures)~~

~~ACCEPTANCE OF NOMINATION~~

~~I, the person named in this petition, accept the above nomination, certify that I possess the qualifications required by Section 2.04.030, Whittier Municipal Code, and agree to serve if elected.~~

~~My name should be placed on the ballot to read as follows:~~

~~_____~~

~~(please print)~~

~~My mailing address is: _____~~

~~My residence address is: _____~~

~~P. O. Box _____~~

~~Whittier, Alaska 99693~~

~~My telephone number is: Days _____~~

~~Evenings _____~~

~~_____~~

~~Signature of Candidate~~

~~CERTIFICATE OF FILING~~

~~The within petition is filed by _____, whose address is _____ Whittier, Alaska 99693.~~

~~FILED on the ___ day of _____, _____, at _____ o'clock in the __. M.~~

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

City Clerk, City of Whittier

By: _____

Deputy

~~2.06.040 Candidate nomination — Nomination petitions — Filing.~~

~~Nominating petitions must be completed and filed with the City Clerk from August 1st through August 15th at 5:00 p.m. In the event August 1st falls on a Saturday or Sunday, then the petition would be available the preceding Friday. In the event August 15th falls on a Saturday or Sunday, then the petition must be filed no later than 12:00 noon on the first Monday following August 15th. The City Clerk shall record on the face of the petition itself the name and address of the person filing the petition, and the date and time it was filed. All petitions shall be preserved by the City Clerk and eventually destroyed as provided by this chapter for destruction of ballots.~~

~~2.06.050 Candidate nomination — Notification.~~

~~A. Within four days after the filing of a nominating petition, the City Clerk shall notify the candidate named in the petition and the person who filed the petition whether it is in the proper form and signed by 10 qualified electors. Nothing in this section alters or amends the City Clerk's authority to determine a candidate's qualifications as provided for in WMC 2.06.055.~~

~~B. If the petition is found defective for any reason the City Clerk shall immediately return it to the person who filed it, with a statement certifying wherein the petition is deficient, and shall send a copy of the statement to the proposed candidate.~~

~~C. A new petition for the same candidate may be filed within the times prescribed for filing petitions.~~

~~2.06.052 Write in candidates — Notice of intent required.~~

~~A. If a person is not nominated for office according to the provisions set forth in WMC 2.06.020 through 2.06.040, or does not appear on the final ballot for any reason other than a failure to fulfill the qualifications for the office, and wishes to be a candidate in the election, the candidate may file as a write in candidate.~~

~~B. Votes for a write in candidate may not be counted unless that candidate has filed a letter of intent not earlier than the day immediately following the last day of the filing period for nomination petitions and not later than 14 days prior to the date of the election with the City Clerk stating:~~

- ~~1. The full name of the candidate;~~
- ~~2. The full residence and mailing address of the candidate and the date on which~~

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- residency at that address began;
3. ~~The day and evening telephone numbers of the candidate;~~
 4. ~~The office, and seat, if applicable, to which the candidate seeks election;~~
 5. ~~The name of the candidate as the candidate wishes it to be written on the ballot by the voter;~~
 6. ~~The date of the election at which the candidate seeks election;~~
 7. ~~A certification by the candidate that the candidate:~~
 - a. ~~Is a qualified voter and elector of the City of Whittier;~~
 - b. ~~Is a resident of the City;~~
 - c. ~~Qualifies or shall qualify, as of the date of the election, for the office the candidate seeks;~~
 - d. ~~Shall serve if elected;~~
 - e. ~~Intends to remain a resident of the City for at least one year after the date of the election; and~~
 - f. ~~Is not a candidate for any other office to be voted on in the election;~~
 8. ~~A certification by the candidate that the information in the letter of intent is true and accurate; and~~
 9. ~~The date and signature of the candidate seeking office.~~

~~2.06.055 Determination of candidate qualifications.~~

~~A. The City Clerk shall determine whether each candidate for municipal office is qualified as provided by law. At any time before the election, the City Clerk may disqualify any candidate whom the City Clerk finds is not qualified.~~

~~B. A candidate or person receiving write-in votes who is disqualified may request a hearing before an independent hearing officer appointed by the City Council. The hearing shall be held no later than 10 days following a request by the person disqualified, unless the disqualified person and the City Council agree in writing to a later date. The hearing shall be conducted in accordance with the procedures provided for in AS 44.62.450(e) and (d), 44.62.460, and 44.62.630.~~

~~2.06.060 Candidate nomination — Withdrawal.~~

~~A. Any candidate nominated for office by a nomination petition may withdraw their candidacy no later than 30 days before the election.~~

~~B. Any candidate nominated for more than one seat on the City Council shall withdraw their candidacy from all but one seat no later than 30 days before the election. If the candidate fails to timely withdraw from all but one seat, then the City Clerk shall promptly declare the individual to be a candidate for the seat for which a proper nominating petition with sufficient signatures was first filed with the City Clerk and shall disqualify the candidate from all other City Council seats to which the candidate was nominated.~~

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

~~2.06.070 Annual election—When held.~~

~~Annually, on the first Tuesday of October of each year, a general election shall be held in the City for the election of vacant City offices, and for the determination of other matters as may regularly be placed on the ballot.~~

Section 6. This Ordinance is a permanent code ordinance.

Section 7. 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 8. This ordinance shall become effective upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this ___ day of _____, 2018.

Introduced by: _____

1st reading: _____, 2018

2nd reading and public hearing: _____, 2018

Daniel Blair
MAYOR

ATTEST:

Naelene Matsumiya
CITY CLERK

Ayes:
Nays:
Absent:
Abstain:

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