

**CITY OF WHITTIER, ALASKA  
ORDINANCE #03-2020**

**AN ORDINANCE OF THE CITY COUNCIL OF WHITTIER, ALASKA AMENDING  
WHITTIER MUNICIPAL CODE SECTIONS 2.06.430, 2.08.260, 2.64.400, 3.08.370,  
3.09.020, 3.12.090, 8.16.060, 8.28.110, 10.25.040, 10.40.020, 13.08.410, 16.40.010, AND  
17.16.223 CHANGING ALL MISDEMEANORS UNDER THE WHITTIER MUNICIPAL  
CODE TO MINOR OFFENSES**

**WHEREAS**, given the City of Whittier’s limited resources and its reliance upon State of Alaska law when exercising its police powers, it is in the City’s best interest to treat violations of the Whittier Municipal Code as minor offenses, rather than misdemeanors,

**THE WHITTIER CITY COUNCIL ORDAINS:**

**Section 1.** Whittier Municipal Code Section 2.06.430 entitled Violation – Penalty is amended to read as follows:

2.06.430 Violation – Penalty

A. Any person who violates ~~Violation of~~ any provision of WMC 2.06.380 is guilty of an infraction, ~~a misdemeanor and~~ punishable by a fine not to exceed \$500.00.

B. Any person elected to any City office convicted of a corrupt practice or election offense as provided herein shall be punished, in addition to any other punishment, by being deprived of the office or position and the vacancy shall be filled as any other vacancy.

**Section 2.** Whittier Municipal Code Section 2.08.260 entitled Rules – Decorum by the public is amended to read as follows:

2.08.260 Rules – Decorum by the public

A. Any person addressing the Council making personal, impertinent or slanderous remarks, or who shall become boisterous while addressing the Council, shall be forthwith, by the presiding officer, barred from further audience at the meeting before the Council, unless permission to continue is granted by a majority vote of the Council.

B. Any person in the audience who uses loud, boisterous or profane language at a Council meeting, or language tending to bring the Council or any Council member into contempt, or any person who persistently interrupts the proceedings of the Council or refuses to keep quiet or take a seat when ordered to do so by the presiding officer, ~~is~~ shall be deemed guilty of an infraction, a misdemeanor punishable by a fine not to exceed \$1,000. Upon instruction from the presiding officer, it shall be the duty of any police officer present to eject any such person from the Council Chambers, ~~or place such person under arrest, or both.~~

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

**Section 3.** Whittier Municipal Code Section 2.64.400 entitled Violation – Penalty is amended to read as follows:

2.64.400 Violation – Penalty

It shall be **an infraction** ~~misdemeanor~~, punishable by a fine not to exceed ~~the sum of~~ \$500.00, for any person during a proclaimed disaster emergency ~~to willfully~~:

A. Obstruct, hinder or delay any accredited member of the disaster and civil defense organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;

B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the City, or to prevent, hinder, or delay the defense or protection thereof;

C. To wear, carry or display, without authority, any means of identification specified by the City Office of Emergency Management or the Alaska Division of Emergency Services.

**Section 4.** Whittier Municipal Code Section 3.08.370 entitled Failure to file returns or remit taxes – Civil penalties – Publication – Injunction is amended to read as follows:

3.08.370 Failure to file returns or remit taxes – Civil penalties – Publication – Injunction

A. Failure to file two or more returns in any one tax year after notice from the City to the seller's address last shown on its business license application, ~~when intentional~~, constitutes **an infraction**, ~~a misdemeanor and is punishable by imprisonment for up to 30 days, and a fine not to exceed \$500.00, plus costs of prosecution, in addition to any civil penalty assessed.~~

B. A seller who fails to file a return within the time required by this chapter, or who fails to remit all taxes required to be collected by him, or later found to be due, is subject to a penalty of five percent per month of the amount of taxes found or estimated to be due until paid, to a maximum of 25 percent. The filing of an incomplete return, or the failure to remit all taxes due, is the equivalent of filing no return. All taxes due but not paid within the time required by this chapter shall accrue interest at the rate of 15 percent per annum.

C. Any seller who fails to file a return required under this chapter within 15 days of written notification by regular mail, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of \$100.00 for each return not filed, in addition to any penalty for late filing.

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

D. Sellers who have not filed returns for two consecutive reporting periods during a tax year who have not notified the sales tax administrator that they have temporarily or permanently ceased to do business in the City shall be assumed to have ceased conducting business and shall be removed from the roll of active businesses. A business removed from the active businesses roll may not thereafter conduct business within the City until reinstated to the roll. Reinstatement of a business removed from the active businesses roll pursuant to this section may occur only upon payment of a reinstatement fee of \$75.00.

E. If the sales tax administrator has reason to believe that a seller who has been removed from the roll of active businesses pursuant to this section or as a result of written notice by the business to the sales tax administrator is in fact continuing to conduct business, the sales tax administrator may cause a proceeding to be filed in the Superior Court requesting the issuance of an injunction prohibiting that business from continuing to conduct business.

F. As soon as practicable after the expiration of 15 days following the end of each calendar month during the tax year, the sales tax administrator shall publish in customary circulation in the appropriate area of the City, a list of every seller who:

1. Was conducting business in the City and was required to file a return during that month, but who has not filed the required return, unless **the** seller has paid any balance due for that period in full;
2. Did not pay all balances due; or
3. Is delinquent in the payment of amounts owed entered under the provisions of this chapter.

**Section 5.** Whittier Municipal Code Section 3.09.020 entitled Payment by consumer and collection by distributor is amended to read as follows:

3.09.020 Payment by consumer and collection by distributor

A. The fuel distributor shall be responsible for collecting the tax from the consumer. If the distributor has reasonable cause to believe that fuel sold is ultimately destined to be dispensed subject to this excise tax, the distributor shall require the customer to pay the tax at the time of the sale or cause the customer to sign a statement that the fuel is either: (1) not going to be dispensed into a watercraft within the City or (2) will be dispensed into watercraft from the floating fuel dock located in the Whittier Small Boat Harbor. Except as otherwise provided in this chapter the fuel distributor shall be jointly and severally liable with the consumer to the City for all taxes the distributor is required to collect, whether or not collected by the distributor.

B. It shall be **an infraction, punishable by a fine not to exceed \$500.00**, ~~a misdemeanor to falsely sign or cause to sign, such a statement or to do so with false intent. The maximum fine shall be \$500.00.~~

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

C. All excise taxes collected or which should have been collected pursuant to this chapter are City moneys for which the fuel distributor is liable and at all times accountable to the City. All such City moneys shall be held by the fuel distributor in trust for the City in an account that is separate from other moneys of the fuel distributor.

**Section 6.** Whittier Municipal Code Section 3.12.090 entitled Personal property tax return is amended to read as follows:

3.12.090 Personal property tax return

A. Every person shall submit to the Assessor a personal property return of any property owned by him or in which he has an interest, and the property held or controlled by him in a representative capacity, in the manner prescribed by this chapter, which return shall be based on property values existing as of the first day of January of the year in which the return is made. The person making the return in every case shall state an address to which all notices required to be given to him under this chapter may be mailed or delivered. The return shall show the nature, quantity, description, amount, and value of all personal property, **as well as** the place where the property is situated, ~~and the.~~ **The** return shall be in such form and include such additional information as the Council or Assessor may prescribe, and shall be signed and verified under oath by the person liable or his or its authorized agent or representative.

B. The return shall be filed before February 15th of each year. The Assessor may, by notice in writing to the person by whom a return has been made, require from him a further return and a receipt of the notice; that person shall comply fully with its requirements within 30 days. If no return is filed as required by this section, or if the return is filed late, the taxpayer shall pay a penalty of five percent of any personal property tax for any filing with the Assessor after February 1st but before June 1st of each year, and, after June 1st, the penalty shall be 10 percent of any personal property tax levied, plus interest at the rate of eight percent a year from the date the taxes would ordinarily come due.

C. All statements on personal property tax returns made by any person required under this chapter to file such return shall be confidential; and said return may not be inspected by any person except officers authorized to administer the tax laws of the United States, or the State of Alaska, or this City, or a law enforcement officer, or in response to a proper subpoena from a court. Any employee who violates this restriction by communicating any information obtained under these provisions, except such information as required by law to be shown on the assessment rolls, or who allows any person not legally entitled thereto to inspect or have access to any return made under these provisions is guilty of **an infraction**, ~~a misdemeanor~~ punishable under this chapter, and shall be immediately discharged from his office of employment.

**Section 7.** Whittier Municipal Code Section 8.16.060 entitled Abatement officer is amended to read as follows:

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

#### 8.16.060 Abatement officer

A. It is the function of the abatement officer to enforce this chapter. The abatement officer has authority to determine that a nuisance exists. The abatement officer shall investigate any written complaint received by the City and may investigate other matters involving violation of this chapter. The abatement officer may issue orders to abate as provided in this chapter.

B. The abatement officer shall file a civil action only after approval by City Council.

C. A citation for an infraction for violating this chapter may be issued by the abatement officer or any police officer. ~~The abatement officer may not charge a person with a misdemeanor or felony charge.~~

**Section 8.** Whittier Municipal Code Section 8.28.110 entitled Violation – Penalty is amended to read as follows:

#### 8.28.110 Violation – Penalty

A person who violates WMC 8.28.060 ~~is shall be deemed guilty of a misdemeanor and upon conviction, shall be punishable by a fine not to exceed of not more than \$100.00, or imprisonment for not more than 10 days, or both fine and imprisonment at the discretion of the City magistrate.~~ **an infraction, a**

**Section 9.** Whittier Municipal Code Section 10.25.040 entitled Overnight parking of trailers and campers is amended to read as follows:

#### 10.25.040 Overnight parking of trailers and campers

A. No motorhome, camper or camping trailer may be parked overnight from 12:00 midnight to 6:00 a.m. along any public street for the purpose of camping; ~~neither may a~~ **No** utility trailer or boat trailer ~~may be allowed to~~ be parked, either connected or disconnected from a vehicle, on a public street or on public property situated within the City, except in authorized areas designated by the City as a permissible overnight parking area or at the City camper park.

B. Violation of any provision of this section is **an infraction, a misdemeanor and** punishable by a fine not to exceed \$300.00 ~~together with a formal complaint.~~

**Section 10.** Whittier Municipal Code Section 10.40.020 entitled Violation – Penalty is amended to read as follows:

#### 10.40.020 Violation – Penalty

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

Violation of any provision of this chapter is ~~an infraction, a misdemeanor and~~ punishable by a fine not to exceed \$300.00 ~~together with a formal complaint.~~

**Section 11.** Whittier Municipal Code Section 13.08.410 entitled Violation – Penalty is amended to read as follows:

13.08.410 Violation – Penalty

Any person who shall continue any violation beyond the time limit provided for in WMC 13.08.390 ~~is~~ shall be guilty of **an infraction, a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding** **punishable by a fine not to exceed** \$300.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

**Section 12.** Whittier Municipal Code Section 16.40.010 entitled Violation – Penalty is amended to read as follows:

16.40.010 Violation – Penalty

A. The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a final plat of the subdivision has been prepared, approved and recorded is guilty of **an infraction, a misdemeanor and, upon conviction, is punishable by a fine not to exceed** ~~of not more than~~ \$500.00 for each lot or parcel transferred, sold, or included in a contract to be sold. The Planning Commission may enjoin a transfer, sale, or contract to sell and may recover the penalty by appropriate legal action.

B. No person shall record a plat or seek to have a plat recorded unless it bears the approval of the Planning Commission. Any person who knowingly violates this requirement is **guilty of an infraction, punishable, upon conviction, by a fine not to exceed** ~~of not more than~~ \$500.00.

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

**Section 13.** Whittier Municipal Code Section 17.16.223 entitled Penalty is amended to read as follows:

17.16.223 Penalty

Any person violating any provision of this chapter shall be guilty of **an infraction**, a ~~misdemeanor and shall be subject only to~~ **punishable by** a fine not to exceed \$1,000.

**Section 14.** Classification. This Ordinance is a permanent code ordinance.

**Section 15.** 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 16.** Effective date. This ordinance shall be effective upon adoption.

**PASSED AND APPROVED** by a duly constituted quorum of the Whittier City Council on this 15 day of September, 2020.

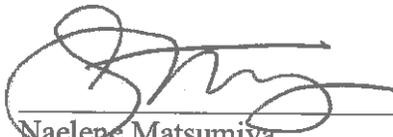
Introduced by: Jim Hunt

1st reading: August 18, 2020

2nd reading and public hearing: Sept. 15, 2020

  
\_\_\_\_\_  
David Dickason  
MAYOR

ATTEST:

  
\_\_\_\_\_  
Naelene Matsumiya  
CITY CLERK

Ayes: 7  
Nays: 0  
Absent: 0  
Abstain: 0

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