

**CITY OF WHITTIER, ALASKA
ORDINANCE #07-2017**

AN ORDINANCE OF THE CITY OF WHITTIER CREATING WHITTIER MUNICIPAL CODE SECTIONS 17.12.055 ENTITLED “ZONING MAP EXCEPTIONS” AND 17.16.052 ENTITLED “TIDELANDS DISTRICT.”

WHEREAS, tidelands make up a significant portion of the City of Whittier's land; and

WHEREAS, tidelands have not previously been demarcated on the City's zoning map; and

WHEREAS, defining the use to which various tideland areas are put will ensure that those lands to be protected or put to an appropriate use that will benefit the City; and

WHEREAS, the City of Whittier Planning and Zoning Commission passed Resolution #01-2017 recommending that City Council zone the City tidelands by means of this ordinance; and

WHEREAS, it is in the City's best interest to amend the Zoning Code to allow for the beneficial use and protection of the City's tidelands.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whittier,

Section 1. Section 17.12.055 entitled “Zoning Map Exceptions” is created and reads as follows:

17.12.055 ZONING MAP EXCEPTIONS.

A. TIDELANDS

Zoned tidelands are not depicted on the official zoning map, but are described herein. “City Tidelands” means all those lands within the municipal boundaries of the City of Whittier, Alaska which are periodically covered by tidal water between the elevations of mean high tide and 100 feet beyond mean low tide toward the water, and any additional lands that may be defined by the State of Alaska as “Tidelands” as designated in Alaska Tidelands Survey 1545.

1. **Recreational Tidelands.** Tidelands within Tract A, Tract B, Tract C and Tract E of Alaska Tidelands Survey No. 1545 and all remaining tidelands within the municipal boundaries of the City of Whittier, Alaska, except those described as commercial tidelands (CT) in WMC 17.12.055(2) are hereby zoned as recreational tidelands (RT) and are subject to the additional regulations as set forth in WMC 17.16.052(A).
2. **Commercial Tidelands.** Tidelands within Tract D, Tract G-1, Tract G-2, Tract G-3 and the tidelands lying directly between Tract D and Tract E of Alaska Tidelands Survey No. 1545, on the south side of a line from point C3 of Tract D to point C3 of Tract E

as shown by a dashed line on the Alaska Tidelands Survey No. 1545, are hereby zoned commercial tidelands (CT) and are subject to the additional regulations as set forth in WMC 17.16.052(B).

Section 2. Section 17.16.052 entitled “Tidelands District” is created and reads as follows:

17.16.052 TIDELANDS DISTRICT.

A. RT - RECREATIONAL TIDELANDS DISTRICT

(1) *Purpose and intent.* The recreational Tidelands district is intended to provide for the protection of those tide and submerged city tidelands that have been identified as important to fish and wildlife habitats, recreation and personal use activities, and water quality and circulation characteristics.

(2) *Uses permitted.* In the Recreational Tidelands District, tide and submerged lands may be used for one or more of the following uses:

- (a) Recreational use resource gathering activities including fishing, hunting, shellfish gathering, and the gathering of plant species;
- (b) Temporary and casual recreational uses, such as picnicking and sport fishing.
- (c) Public entry and incidental use of waters and tidelands, including casual transit by all non- motorized vessels;
- (d) Other similar uses not listed above which meet the “Purpose and Intent” provisions of this section of the ordinance and would be no more objectionable than those uses listed above. This matter is subject to review and approval of the Planning commission.

(3) *Conditional uses and structures.* In the Recreational Tidelands District, the following uses and their accessory uses may be permitted, subject to securing a Conditional Use approval in each case as provided for in this chapter subject to review and approval of the Planning commission. See WMC CHAPTER 17.28.

- (a) Any sort of structure designed or used for vessel moorage or docking lying within the tidelands or the setback area. In no case shall a conditional use be granted for a structure designed to moor a recreational vessel of more than fifty feet (50’) in length.
- (b) Dredging.
- (c) Any other use not listed above may be permitted as conditional use subject to the review and approval of the Planning Commission

per the provisions contained herein.

(4) *Minimum setback requirements.*

(a) Public access minimum of 25' shore set back. Docks, decking, approaches and similar surfaces are subject to approval of conditional use by the planning commission. See WMC CHAPTER 17.28.

Any question concerning the applicability of the above setback provisions are subject to review and approval of the Planning Commission

(5) *Special provisions.* The following special provisions apply to all uses within the Recreational Tidelands District:

(a) All uses must comply with federal, state, and local air, water quality, and waste disposal laws and other environmental regulations;

(b) Any use is prohibited which causes or may reasonably be expected to reference the cause excessive noise, vibration, odor, smoke, dust, or other particulate matter, humidity, heat, or glare at or beyond any lot line of the lot on which it is located. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare, or convenience; See WMC CHAPTER 8.16

(c) Uses shall not impair water flow or impede fish passage, movement, or migration;

(d) All vessels mooring in the area will comply with federal, state, and city regulations regarding the discharge of bilge waters, other wastes, and spills of oil and other contaminants;

(e) No storage of flammable materials, hazardous materials or toxic waste shall be allowed in the Recreational Tidelands Zone.

(6) *Parking allowed ONLY in designated areas.*

(7) *General provisions. See WMC CHAPTER 17.04.*

B. CT - COMMERCIAL TIDELANDS DISTRICT

(1) *Purpose and intent.* The Commercial city of Whittier tidelands District is intended to provide for those tide and submerged lands that have been identified as developable as commercial tidelands subject to guidelines and restrictions.

(2) *Uses permitted.*

(a) In the Commercial Tidelands District, tide and submerged lands may be used for one or more of the following uses:

- (i) All those uses permitted in the Recreational Tidelands District;
- (ii) Commercial or industrial on- and off-loading of supplies and materials;
- (iii) Commercial aquaculture activities; and
- (iv) Intake lines for live product processing and underwater outfall lines.
- (v) Marine dependent commercial or industrial support services and facilities;
- (vi) Fish processing activities; and
- (vii) Boat and ship repair.

(b) Other similar uses not listed above which meet the "Purpose and Intent" provisions of this section of the ordinance and which would be no more objectionable than those uses listed above. Subject to review and approval by the Planning Commission.

(3) *Conditional uses and structures.* In the Commercial Tidelands District, the following uses and their accessory uses may be permitted, subject to securing a Conditional Use approval in each case. See WMC CHAPTER 17.28

- (a) Fuel docks and loading/off-loading of such materials;
- (b) Permitted accessory uses and structures. Small wind energy system and accessory uses customarily incidental and subordinate to the location, function, and operation of permitted uses
- (c) All other uses not listed above may be permitted as conditional uses subject to the review and approval of the Planning Commission per the provisions of WMC CHAPTER 17.28.

(4) *Special provisions.* The following special provisions apply to all uses within the Commercial Tidelands District:

- (a) All uses will comply with federal, state, and local air, water quality, and waste disposal laws and other environmental regulations;
- (b) Any use is prohibited which causes or may reasonably be expected to cause excessive noise, vibration, odor, smoke, dust, or other particulate matter, humidity, heat, or glare at or beyond any lot line of the lot on which it is located. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare, or convenience; See WMC CHAPTER 8.16.
- (c) All uses that impair water flow or impede fish passage, movement, or migrations shall require a conditional use. See WMC CHAPTER 17.28.
- (d) All vessels mooring in the area will comply with federal, state, and city regulations regarding the discharge of bilge waters, other wastes, and spills of oil

and other contaminants;

(e) The storage of flammable materials, hazardous materials, or toxic waste on-site shall be allowed only in strict compliance with federal, state, and local laws and regulations; and See WMC CHAPTER 8.12.

(f) Materials shall be stored and grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or otherwise create a health hazard or nuisance. See WMC CHAPTER 8.16.

(5) *Parking regulations; See WMC CHAPTER 10.25.*

(6) *General provisions See WMC CHAPTER 17.04.*

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 21st day of November, 2017.

ATTEST:



Krista Fish
City Clerk



Daniel Blair
Mayor

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