



City Council Special Meeting Agenda

April 29, 2025 at 6:00 PM

City Council Chambers, Whittier Alaska

Mayor: Daniel Blair

City Manager: Jackie C. Wilde

City Clerk: Shelby Carlson

City Attorney: Holly Wells

Council Members: Victor Shen, Seat A, Tom Wagner, Seat B, Dave Dickason, Seat C, Renner Macal tao, Seat D, David Pinquoch, Seat E, Peter Denmark, Seat F

Call to Order

Opening Ceremony

Roll Call

Citizen Comments on Any Agenda Item Except Those Items Scheduled For Public

Hearing: Those who have signed in will be given the first opportunity to speak on any agenda item except those scheduled for Public Hearing. Time is limited to two (2) minutes per speaker and thirty (30) minutes total time for this agenda item.

Approval of Special Agenda

Conflict of Interest: Immediately after the Council approves the agenda at a regular or special meeting, each Council member shall declare any financial interest in a matter appearing on the agenda. Any Council member or member of the public present at the meeting may question whether another Council member has a financial interest in a matter appearing on the agenda.

Special Meeting Business

1. Presentation of President's Address
2. Resolution 2025-020 Encouraging Voting Rights for Citizens of the United States and U.S. Territories, Including but Not Limited to American Samoa, in State of Alaska and Local Elections
3. Reschedule May Regular Meeting and Board of Equalization

Council Comments

Citizen Discussion: Those signed-in will be given the first opportunity to speak on any subject over which the Council has control. Time is limited to five (5) minutes per speaker.

Council and Administration Response to Citizen Comments

Executive Session

Adjournment

MEMORANDUM

ATTORNEY-CLIENT COMMUNICATION

TO: CITY OF WHITTIER

FROM: HOLLY C. WELLS

RE: NON-CITIZEN VOTING

CLIENT: CITY OF WHITTIER

FILE NO.: 507456.93

DATE: APRIL 22, 2025

QUESTION

Whittier asked which, if any, laws prohibit it from allowing non-citizen residents to vote in its local elections.

SHORT ANSWER

AS 15.05.010 prohibits Whittier from allowing non-citizens to vote in local elections, and it is likely that Art. V, § 1 of the Alaska Constitution also prohibits the same.

LEGAL FRAMEWORK

I. FEDERAL LAW

Federal law does not prohibit Whittier from allowing non-citizens to vote in its local elections. In fact, federal law explicitly allows non-citizens to vote in state and/or local elections if state law or local ordinance allows the same, and the election is conducted independently of federal elections to ensure that non-citizens are prevented from voting in federal elections.¹

II. STATE LAW

Art. V, § 1 of the Alaska Constitution states that

[e]very citizen of the United States who is at least eighteen years of age, who meets registration residency requirements which may be prescribed by law, and who is qualified to vote under this article, may vote in any state or local election. A voter shall have been, immediately preceding the election, a thirty day resident of the election district in which he seeks to vote, except

¹ See 18 USC § 611(a).

that for purposes of voting for President and Vice President of the United States other residency requirements may be prescribed by law. Additional voting qualifications may be prescribed by law for bond issue elections of political subdivisions.

This section has been interpreted to mean that only US citizens can vote in elections in Alaska.² In *Park*, the Alaska Supreme Court evaluated “whether an alien who is a permanent resident of Alaska may be precluded from voting in *state elections*” (emphasis added).³ The non-citizen in that case applied for registration as a voter in the then-upcoming state primary and general elections.⁴ The State denied Park’s application on the basis that he was not a US citizen.⁵ On appeal, the non-citizen argued that the State’s denial of his application violated the Equal Protection Clauses of the US and Alaska Constitutions.⁶ Ultimately, the Alaska Supreme Court disagreed and held that “[t]he plain meaning of [Art. V, § 1] limits the voting privilege to citizens of the United States.”⁷ The Court also wrote that “under the express language of Article 5, Section 1, aliens are excluded from voting in the State of Alaska.”⁸ The court also held that Art. V, § 1 did not violate the Equal Protection Clause of the US Constitution.⁹

To continue, AS 15.05.010 states in relevant part that “[a] person may vote at *any election* who is (1) a citizen of the United States” (emphasis added). The plain language of the statute indicates that non-citizens cannot vote in any Alaska election – state or local – which is consistent with *Park*.

III. WHITTIER MUNICIPAL CODE

WMC 20.06.010 specifically incorporates federal and state election law, insofar as it affects City elections. Accordingly, at present, Whittier’s Municipal Code limits voting to US citizens.

IV. PROPOSED LEGISLATION

House Joint Resolution No. 19 was introduced by Rep. Costello on April 11, 2025. HJR 19 proposes that a constitutional amendment be placed on the ballot to amend Art. V, § 1 of the Alaska Constitution to state that “only a citizen of the United States” can vote in Alaska, rather than the current language that “every citizen of the United States” can vote. If the proposed amendment is eventually successful, voting in Alaska will be limited to citizens of the United States, to the extent that it is not already.

² See *Park v. State*, 528 P.2d 785 (Alaska 1974).

³ *Id* at 785.

⁴ *Id* at 786.

⁵ *Id*.

⁶ *Id*.

⁷ *Id*.

⁸ *Id* at 787.

⁹ *Id*.

HJR 19 has yet to receive a hearing, and it is unlikely to advance at this late stage of the current legislative session. This is because little time remains in the session and the legislature appears focused entirely on passing a budget at present.

ANALYSIS

Absent a legislative change to AS 15.05.010 to exempt local elections, the City will be prohibited from allowing non-citizens to vote in its local elections. As previously stated, the Alaska Supreme Court's current interpretation of Alaska Const. Art. V, § 1 is that only citizens can vote in Alaska. But the Court was not asked whether non-citizens could vote in local elections as opposed to state elections. Accordingly, it is possible that the Court might opine differently with respect to the local elections question, especially given that Art. V, § 1 allows for additional qualifications to be proscribed for local bond issues. However, when considering the plain meaning of the word "additional," it seems more likely that the Alaska Supreme Court would opine that qualifications beyond those found in the Constitution are allowable for local bond proposals, rather than qualifications beneath those stated in Art. V.

CONCLUSION

While we recommend that the City continue to mirror state law to ensure compliance in its administration of its local elections, the City Council may want to contact its local legislators to seek an amendment to the Alaska Constitution that exempts local elections from the citizenship requirement. Alternatively, instead of allowing "only citizens" or "all citizens" to vote, a constitutional amendment could be proposed that allows "all citizens of the United States or its territories" to vote, or adds that specific sentence and an additional sentence prohibiting illegal aliens from voting in any state or local election.

Additionally, the proposed legislation could be accompanied by a resolution acknowledging that the City is dedicated to complying with federal and state law regarding its local elections, but that it encourages the Alaska Legislature to reconsider allowing citizens of US territories to vote in local elections. A recommendation like the one proposed here would capture the opinions of the City Council, which members have expressed in the last few meetings. Again, the City must comply with the Alaska Constitution as currently interpreted by the Alaska Supreme Court, as well as AS 15.05.010. That does not, however, interfere with the City Council's ability to support a constitutional and/or legislative change that Council Members believe serves the interests of City residents.

A resolution is attached to this memorandum for the City Council's consideration that incorporates the contents of this memorandum.

HCW/ajl

Sponsored by: Blair

**CITY OF WHITTIER, ALASKA
RESOLUTION 2025-020**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA,
ENCOURAGING VOTING RIGHTS FOR CITIZENS OF THE UNITED STATES AND
U.S. TERRITORIES, INCLUDING BUT NOT LIMITED TO AMERICAN SAMOA, IN
STATE OF ALASKA AND LOCAL ELECTIONS**

WHEREAS, the City of Whittier, a culturally diverse community of just over 250 full-time residents, is home to a broad range of residents from various U.S. states, territories, and ethnic backgrounds, including a significant number from American Samoa, who together contribute to the social, cultural, and economic fabric of our city; and

WHEREAS, concerns have been raised regarding unequal treatment of some territorial residents, notably American Samoans, and their access to voting rights and equal protection under the law; and

WHEREAS, American Samoans in Whittier are valued members of our diverse community, serving important roles in the public and private sector, volunteering in our community, and actively participating in community events that help bring us together and strengthen our ties to each other; and

WHEREAS, the American Samoan community in Alaska has at times faced discrimination, contributing to a sense of second-class treatment; and

WHEREAS, on September 5, 2024, approximately two dozen Alaska State Troopers entered Whittier without the knowledge of Whittier City officials or law enforcement in a caravan of unmarked vehicles, investigating American Samoan residents regarding their immigration status and voting activities; and

WHEREAS, on January 17, 2025, the City of Whittier filed a public records request to the Alaska Department of Public Safety requesting any and all public records associated with the Trooper incident, to which the Department replied “the record is not known to exist”; and

WHEREAS, on January 30, 2025, the Whittier City Attorney filed a separate public records request to the Alaska Department of Public Safety requesting any and all public records associated with the incident, to which the Department replied that the nondisclosure of the record was authorized by a federal or state law or regulation and that the records request could reasonably be expected to interfere with enforcement proceedings; and

WHEREAS, American Samoans in Whittier, including residents that are U.S. citizens, have expressed fear of State prosecution following the trooper incident and many American Samoan residents have withdrawn from participation in local government and community events; and

41 **WHEREAS**, the Whittier City Council is committed to fostering an inclusive and
42 equitable community that upholds the dignity and rights of all its residents, regardless of their
43 race, ethnicity, or territorial status; and

44 **WHEREAS**, the City is dedicated to upholding and complying with the Alaska
45 Constitution and all federal, State, and local laws and values its collaborative relationship with
46 the Alaska State Troopers and the importance of avoiding any interference with lawful
47 investigations by the Alaska State Troopers; but

48 **WHEREAS**, the City encourages the Alaska State Troopers to provide the City with the
49 requested records and to communicate with the community to reassure Whittier residents and the
50 advocates that support them that the September 5, 2024 incident was lawful;

51 **NOW, THEREFORE, THE WHITTIER CITY COUNCIL HEREBY RESOLVES**
52 **THAT:**

- 53 1. The Whittier City Council reaffirms its support for equal voting rights in state and
54 local elections for all residents who are citizens of the United States or its territories,
55 including those born in American Samoa.
56
57 2. That the Whittier City Council encourages a constitutional amendment to Art. V,
58 Section 1 of the Alaska Constitution that reads as follows:

59 [e]very citizen of the United States **or a territory of the United States** who is at least
60 eighteen years of age, who meets registration residency requirements which may be
61 prescribed by law, and who is qualified to vote under this article, may vote in any state
62 or local election. A voter shall have been, immediately preceding the election, a thirty
63 day resident of the election district in which he seeks to vote, except that for purposes
64 of voting for President and Vice President of the United States other residency
65 requirements may be prescribed by law. Additional voting qualifications may be
66 prescribed by law for bond issue elections of political subdivisions.

- 67 3. That the Whittier City Council supports a revision to Alaska Statute AS 15.05.010 to
68 ensure inclusion of U.S. territorial residents as eligible voters for state and local
69 elections under the same residency and registration criteria that reads as follows:
70

71 A person may vote at any election who

72 (1) is a citizen of the United States **or a territory of the United States**;

73 (2) is 18 years of age or older;

74 (3) has been a resident of the state and of the house district in which the person seeks
75 to vote for at least 30 days just before the election; and

76 (4) has registered before the election as required under AS 15.07 and is not registered
77 to vote in another jurisdiction.

- 78 4. That the Whittier City Council respectfully requests that the Alaska Legislature and
79 Alaska Governor Dunleavy adopt the proposed amendments in this resolution,

recognizing the need for equitable treatment of territorial residents in Alaska's electoral process; and

5. That the Whittier City Council affirms its commitment to protecting the rights of all residents who are lawful U.S. citizens and territorial nationals, and who meet Alaska's voting requirements, to fully participate in local elections; and

6. That the Whittier City Council respectfully requests that Whittier residents that participated in State and local elections without understanding that unlike all other U.S. territories, citizens of the American Samoa are not considered citizens for voting purposes in State and local elections, be given the minimum punishment permissible under law and that the State of Alaska increase its education efforts and voter information to assist the American Samoan community in understanding their unique voter status and the steps required for them to lawfully vote in State and local elections; and

7. The Whittier City Manager, or her designee, is authorized and directed to transmit this resolution to the Alaska Department of Public Safety, the Alaska Department of Law, Governor Dunleavy, the Alaska Legislature, and other relevant government entities or public officials, and to take any and all other actions necessary to implement this resolution.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 29th day of April, 2025.

Daniel Blair
Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Shelby Carlson

City Clerk

(City Seal)