

CITY OF VALDEZ, ALASKA

ORDINANCE NO. 21-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AMENDING CHAPTER 17.48, BY REPEALING AND RE-ENACTING SECTION 17.48.140 OF THE VALDEZ MUNICIPAL CODE TITLED TEMPORARY LAND USE PERMITS

WHEREAS, the City of Valdez seeks to simplify the temporary land use permit approval process for the use of city-owned lands; and

WHEREAS, the City of Valdez seeks to clarify events that are exempted from the temporary land use permit requirements; and

WHEREAS, Section 17.48.140 will establish a procedure for the approval of temporary uses on private and public lands that are not permitted in the individual zoning district.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, THAT Section 17.48.140 is hereby repealed and re-enacted.

Section 1. Section 17.48.140 is re-enacted to read as follows:

17.48.140 Temporary land use permits.

- A. This chapter applies to interim, non-permanent, and/or seasonal uses of land including but not limited to events, races, carnivals, concerts, outdoor sales events, markets, off-site construction yards, and similar uses. No person shall conduct, operate, maintain, or organize any use regulated by this chapter and no person shall allow the use of their premises for such a use without first obtaining a temporary land use permit in accordance with this chapter.
- B. City owned land. Temporary land use permits shall be required for all interim, non-permanent, and/or seasonal uses of city owned land whether conforming or non-conforming except as otherwise provided herein.
- C. Private, federal, or state-owned land. Temporary land use permits shall be required for all interim, non-permanent, and/or seasonal uses on private, federal, or state owned land that:
 - 1. Do not conform with permitted uses within the zoning district where the temporary use will occur.
- D. The following temporary uses are exempt from the requirement for a temporary land use permit:
 - 1. City use of city owned property.
 - 2. On-site Construction yards:

- a. On-site construction yards, in conjunction with an approved construction project on the same parcel.
 - b. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the building permit authorizing the construction project, whichever first occurs.
- 3. Emergency public health and safety land use activities, as determined by resolution of the city council, or authorized under an emergency declaration.
- 4. Events or uses for a duration of less than ten days held at the following facilities:
 - a. City of Valdez Civic Center
 - b. City of Valdez Parks
 - c. Kelsey Dock
 - d. Valdez Airport
- 5. Garage or yard sales (e.g., personal property sales) in residential zoning districts in compliance with the following standards:
 - a. Only one garage or yard sale may be conducted within any one-month period and the sale shall be limited to not more than three consecutive days or to two consecutive weekends not to exceed four days in all.
 - b. The sale shall not be conducted between the hours of 8:00 p.m. of any day and 7:00 a.m. of the following day.
 - c. The sales shall not encroach or be made on or from public streets or rights-of-way. No licensed retail or wholesale dealer shall be allowed to consign or offer for sale any goods or merchandise or participate in any private sale authorized by this Subsection.
- E. An application for a temporary land use permit shall be filed with the planning department in the following manner:
 - 1. Applications for temporary land use permits shall be submitted utilizing a form prepared by the planning department.
 - 2. The application shall include all information required on the application form and shall be accompanied by a detailed description of the proposed use along with plans for any temporary structures or alterations to the property.
 - 3. Complete applications for short-term permits must be submitted at least fourteen days before the date that the proposed temporary use is scheduled to take place in order to ensure applications are processed in time.

4. Complete applications for long-term permits must be submitted at least forty-five days before the date that the proposed temporary use is scheduled to take place in order to ensure applications are processed in time.

F. The following requirements apply to both short-term and long-term temporary land use permits:

1. For permits on city owned land, permittee shall maintain liability insurance as set forth herein naming the city as an additional insured party with a waiver of subrogation endorsement in favor of the City for the duration of the permit and shall provide proof of the same prior to beginning the proposed temporary use. Minimum insurance requirements are as follows:

- a. General Liability: Covering the Permittee and the City for any and all claims for personal injury, bodily injury (including death) and property damage (including environmental degradation or contamination) arising from any activity occurring as a result of this Temporary Land Use Permit Agreement.

Minimum limits: \$1,000,000 Each Occurrence
 \$100,000 Damage to Rented Premises
 \$5,000 Medical Payments
 \$1,000,000 Personal & Adv Injury
 \$2,000,000 General Aggregate
 \$2,000,000 Products and Completed Operations Aggregate

- b. Auto Liability (if applicable): Permittee shall maintain business auto liability insurance covering liability arising out of any auto (including owned, hired, and non-owned autos).

- c. Minimum Limits: \$1,000,000 Combined single limit each accident

Where workman's compensation insurance is required under state or federal law the City may require proof of such insurance.

In the discretion of the Planning Director, event insurance may be accepted for short-term permits. Upon a showing of good cause, in the discretion of the Planning Director, insurance policies not fully conforming with the minimum requirements set forth herein may be accepted where the nature of the use under the Temporary Land Use Permit is poses a low risk of liability for the City. For permits on private, state, or federal owned land, the Planning Director may require insurance as a condition of permit approval.

2. Use of the property under the permit shall not constitute a nuisance, substantially interfere with the use and enjoyment of adjacent property, or adversely impact public access or city operations;
3. The proposed property shall be adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use is reasonably be expected to generate; and
4. Adequate temporary parking to accommodate vehicular traffic generated by the use shall be available either on the property or at alternate locations acceptable to the city;

5. All permits must be for a fixed period of time identified in the permit;
6. No permanent structures shall be erected on the property;
7. No permanent alteration of land shall occur;
8. The permittee shall obtain all required permits for the proposed use from the city or other governmental agencies.
9. The permittee shall clear the property of any debris, litter, or other evidence of the temporary use upon expiration or termination of the permit.
10. For permits on city owned land, the permittee shall pay fees as established by the city council by resolution. No fees shall be charged for permits issued to contractors for the purpose of completing city owned projects.

G. Short-term permits.

1. The director of the planning department is authorized to grant temporary land use permits when the permit does not exceed ten days in duration and the property under the permit does not exceed five acres.
2. Issuance of short-term permits shall be reported to the planning and zoning commission and city council at the next regularly scheduled meetings.

H. Long-term permits.

1. The planning and zoning commission is authorized to grant temporary land use permits when the permit exceeds ten days in duration.
2. The duration of the permit shall not exceed six months in duration unless the permit is issued to a contractor working on a city owned project.
3. Issuance of long-term permits shall be reported to the city council at the next regularly scheduled meeting.
4. No more than one long-term permit shall be issued each calendar year for the same location to the same applicant.
5. The city manager shall have the authority to execute long-term permits on behalf of the city after approval by the planning and zoning commission.

I. Approval.

1. Temporary land use permits may be issued with or without conditions upon satisfaction of the requirements set forth herein.
2. The Planning Director or Planning and Zoning Commission may deny temporary land use permit applications or place conditions on a temporary land use permit to ensure the temporary use on the proposed property and within the time period specified will not jeopardize, endanger, or substantially interfere with the public convenience, health, safety, or general welfare.
3. If an application for a temporary land use permit is denied, the city shall provide a written explanation to the applicant.

Section 2. This ordinance shall take effect immediately following adoption by the City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 18th day of May, 2021.

CITY OF VALDEZ, ALASKA

Sharon Scheidt
Sharon Scheidt, Mayor

ATTEST:

Sheri L. Pierce
Sheri L. Pierce, MMC, City Clerk

APPROVED AS TO FORM:

Jake Staser
Jake Staser, City Attorney
Brena, Bell, & Walker, P.C.

Adoption: 5/18/21

Yeas: 6

Noes: 0

Absent: 1

Abstaining: 0



17.48.140 Temporary land use permit.

The city will allow for temporary uses of city property under the following conditions:

A. The community and economic development department is authorized to grant temporary land permits for the use of city owned property.

1. The permit shall not exceed one month (thirty-one days) in duration;
2. The permittee shall (in advance) pay a flat monthly fee; except that a pro-rated daily fee may be paid for permits lasting less than one month. Fees will be determined by council resolution;
3. The permittee shall have liability insurance valuing not less than one million dollars and shall name the city as an additional insured party;
4. The use is in conformance with the existing zoning and/or the comprehensive plan;
5. No permanent structures shall be erected on the property;
6. No permanent alteration of land shall occur;
7. The area of use does not exceed two acres;
8. Use under the permit shall not adversely impact public access or city operations;
9. The permittee shall vacate the property within three days of receiving notification from the city;
10. The permit shall be effective immediately upon receipt of required items and issuance by the community and economic development department;
11. Issuance of the permit shall be reported to the planning and zoning commission and city council at the next regularly scheduled meetings.

B. The Valdez planning and zoning commission is authorized to grant temporary land permits for use of city owned property.

1. Permits Not Exceeding Three Months in Duration and Two Acres in Size.
 - a. The permit shall not exceed three months in duration;
 - b. The permittee shall (in advance) pay a flat monthly fee; except that a pro-rated daily fee may be paid for permits where an entire month is not used. Fees will be determined by council resolution;

- c. The permittee shall have liability insurance valuing not less than one million dollars and shall name the city as an additional insured party;
 - d. The use is in conformance with the existing zoning and/or the comprehensive plan;
 - e. No permanent structures shall be erected on the property;
 - f. No permanent alteration of the land shall occur;
 - g. The area of use does not exceed two acres;
 - h. Use under the permit shall not adversely impact public access or city operations;
 - i. The permittee shall vacate the property within fifteen days from receiving written notification from the city;
 - j. The permit shall be effective immediately upon approval by the planning and zoning commission, receipt of required items and issuance by the community and economic development department;
 - k. Issuance of the permit shall be reported to the city council at the next regularly scheduled meeting.
2. Permits Not Exceeding Six Months in Duration.
- a. The permit shall not exceed six months;
 - b. For permit areas not exceeding two acres the permittee shall (in advance) pay a flat monthly fee; except that a pro-rated daily fee may be paid for permits where an entire month is not used. Fees will be determined by council resolution;
 - c. For permit areas exceeding two acres the permittee shall (in advance of each month) pay a monthly fee of ten percent of the fair market value per acre of the property divided by twelve and multiplied by the number of months for which the permit is issued. For the purposes of determining the fair market value the council will routinely pass a resolution updating the per acre values of land as identified by zoning;
 - d. The permittee shall have liability insurance valuing not less than one million dollars and shall name the city as an additional insured party;
 - e. The use is in conformance with the existing zoning and/or the comprehensive plan;
 - f. No permanent structures shall be erected on the property;
 - g. No permanent alteration of the land shall occur;

- h. Use under the permit shall not adversely impact public access or city operations;
- i. The permittee shall vacate the property within thirty days from receiving written notification from the city;
- j. The permit shall be approved by the planning and zoning commission;
- k. The approval of the permit shall be reported to the city council at the next regularly scheduled meeting. The permit will become effective only after review and under no objection by the city council;
- l. The permit shall be effective immediately upon approval by the planning and zoning commission, no objection from the city council, receipt of required items and issuance by the community and economic development department.

C. Administration and Processing of the Permit.

1. A complete application for a temporary land use permit shall be submitted to the community and economic development prior to review and consideration.
2. The city manager is authorized to sign the temporary land use permit on behalf of the city.
3. No more than one of each type of permit shall be issued each year for the same location to the same applicant. (Ord. 11-03 § 1)