



## Legislation Text

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**File #:** 23-0268, **Version:** 1

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### **ITEM TITLE:**

Report: Issuance of of Temporary Land Use Permit #23-06 for the Fat Mermaid Restaurant for 518 Square Feet of Public Right-of-Way Immediately Adjacent to Lot 1A, Block 39A, Harbor Subdivision

**SUBMITTED BY:** Nicole LeRoy, Planner

### **FISCAL NOTES:**

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

### **RECOMMENDATION:**

Receive & file

### **SUMMARY STATEMENT:**

The Fat Mermaid Restaurant applied for a temporary land use permit for seasonal outdoor seating adjacent to their restaurant at 143 North Harbor Drive. This is the fifth year they have pursued a permit of this type. Per the attached application, The Fat Mermaid requested use of a 518 square foot portion of public right-of-way for covered outdoor restaurant seating. The permit duration is May 1 - September 30, 2023.

When this permit was first processed in 2018, staff recommended compliance with the Americans with Disabilities Act (ADA) be a condition of the permit approval to allow all pedestrians an accessible route through the public right-of-way. There was debate at the time as to the required slope of the sidewalk for qualification as an accessible route as defined by the ADA. Through inspection of the site at the time, it was determined that the slope of the accent strip exceeded the 2% maximum slope mandated by the ADA, disqualifying it as an approved accessible route. As such, it was determined by staff that 36" distance of flat, clear sidewalk would need to be maintained to meet the ADA minimum clearance for accessible routes.

Per VMC 17.48.140 F 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. The requirement to meet ADA compliance meets the intent of this provision.

In addition, per Valdez Municipal Code 17.48.140 F 7, the permanent alteration of City property is prohibited under a permit of this type. To satisfy this code requirement, all barricades for the permitted area will be temporary and moveable, and no modification to the sidewalk will occur.

Fees temporary land use permits were established by City Council with Resolution #12-36. The resolution states that “for permits not exceeding two acres in size and for a period of six months or less, the fee shall be \$250 per month.” For the six-month period requested, the permit fee is \$1,500.00.

Staff submitted the temporary land use permit application to Capital Facilities, Public Works, and Ports and Harbor for their comments and received no objection to the permit.

The Planning and Zoning Commission voted to approve this permit on April 26, 2023, with the conditions that the Fat Mermaid comply with all ADA guidelines, make no permanent alteration to the area, and obtain a building permit and required inspections for the proposed awning structure.