

mass transit shelter sign plan.

Section 2. That Section 50-37.7 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.7 Concurrent use of streets permit.

This Section applies to all applications for construction of a skywalk and to any other application requesting that the city approve the concurrent use of the street surface, right-of-way or the air rights above the street or the land beneath the street, but shall not apply to the following:

1. Use of a portion of a public sidewalk for a café, eating area, transit shelter or bench, or bicycle parking area, or
2. An awning, canopy, marquee or wall sign, including building mounted exterior lights that conform to the limits of 50-31 and that provide illumination to an awning, canopy, marquee, or wall sign, extending not more than 18 inches into the public street right-of-way, or an awning or canopy of canvas, canvas-like material, nylon or vinyl-coated fabric extending into the public street right-of-way, up to the limits established by Section 50-27, and
3. HVAC air ducts, vents, and related vent covers/hoods painted to match the color of the building where they are mounted, but not including mechanical units (ie. condensers) and motors, extending not more than 18 inches into a public alley right-of-way and having a vertical clearance of at least twelve feet six inches (12'6") over the surface of the alley;

A. Application.

An application for concurrent use of streets shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

1. Review and recommendation.

The planning commission shall review the petition, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a recommendation to council based on whether the application meets the criteria in subsection C below;

2. Council decision.

Upon receipt of the planning commission recommendation, the council shall make a decision to approve, approve with modifications or deny the application, in whole or part, based on the criteria in subsection C below. The council action shall be by ordinance;

C. Criteria.

The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. For requests for off-street parking in a public street right of way, a concurrent use permit may be granted in the following circumstances:
 - (a) Where overnight on-street parking is prohibited within that portion of the street frontage abutting the property; and
 - (b) Where the distance between the principle structure and the public street right of way is 18 feet or less; and

- (c) Where access to the side or rear yard is not possible due to the presence of the principle structure and the lack of an improved alley; and
- (d) Where a site plan has been submitted showing the arrangement of parking, landscaping, and pedestrian access to the property meeting the following standards:
 - (i) The parking area must be at least 9 feet wide by 17 feet deep, including any extension of the parking space from the public right of way into the abutting private property, and must not block existing or proposed public improvements such as sidewalks or streets;
 - (ii) The parking area width must not exceed 55% of the lot width;
 - (iii) The parking area must be improved with bituminous, concrete, or similar materials or pervious paving system;
 - (iv) A paved walkway at least 3 feet wide must be provided that links the front entrance of the dwelling and the street;
 - (v) A wall, fence or dense vegetative screen at least 3 feet tall and at least 75% opaque must be provided to screen parked vehicles from view of abutting properties;
 - (vi) Barriers must be installed to prevent vehicles from overrunning the parking and driveway areas, such barrier may be a fence, wall or raised curbing (or concrete parking bumpers when secured to the underlying pavement);
- (e) A placard with a diagram no less than 5 inches by 7 inches showing the location and arrangement of parking spaces shall be visible at all times from the exterior of the dwelling; such placard shall be on all-weather media and installed on the front exterior door at an elevation of between 2 feet and 6 feet above the threshold;
- (f) The applicant must sign a document acknowledging that private improvements installed in the public right of way may be removed by the City if needed for installation or repair of public improvements or if the applicant violates the terms of the permit.

Section 3. That Section 50-37.12 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.12 Sidewalk use permit.

This Section applies to uses or proposals to use a portion of a public sidewalk for a café, eating area, transit shelter or bench, bicycle rack, temporary display or other purpose that does not involve the permanent vacation of any part of the street.

D. Application.

An application for a sidewalk use permit shall be filed pursuant to Section 50-37.1.B;

E. Procedure.

The land use supervisor shall refer the application to the city engineer for a recommendation as to whether the proposed design and location of the sidewalk use will provide for and not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure. The land use supervisor shall then review and make a decision on an application based on the criteria in subsection 50-37.12.C. The land use

supervisor may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

F. Criteria.

The land use supervisor shall approve the application, or approve it with modifications, if the supervisor determines that the following criteria have been met:

1. The city engineer has confirmed that the proposed use or structure will not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure;
2. The proposed use or structure will not encroach into drive aisles, loading zones, fire lanes or parking lots;
3. The proposed use or structure will not encroach into any area located directly between any operating building entrance and the street curb (other than a building entrance intended only to serve patrons of an outside eating area);
4. The proposed use or structure will be set back at least seven feet from the curb and at least six feet from all parking meters, street trees, and street furniture in order to allow for the free passage of pedestrians;
5. The applicant has signed an agreement with the city (a) to keep the sidewalk and street within 20 feet of the proposed use or structure free from any litter generated by the use or activity, (b) accepting all liability resulting from the proposed use or structure and holding the city harmless for any and all such liability, (c) providing liability insurance meeting city standards, and (d) determining the period of use.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2021)

STATEMENT OF PURPOSE: This ordinance implements text amendment related to development standards regulated by chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

This ordinance allows for the flexibility to allow a mass transit provider to advertise commercial messages on approved bus shelters. The intent is to allow the mass transit provider to generate some revenue to assist with the maintenance cost of maintaining the shelters. This proposed ordinance change also requires that mass transit shelters be approved by a concurrent use permit (which are approved by the city council) versus a temporary use permit (which is approved by the Land Use Supervisor).

The planning commission held a public hearing at their March 9, 2021, regular meeting. Following discussion and additional amendments to the proposed text change by members of the planning commission, the commission voted with 9 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the text change to the Unified Development Chapter of the City Code.