



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Master

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**Agenda
Section:**

Committee: Planning and
Economic
Development

File Created: 09/18/2015

Subject:

Final Action: 10/12/2015

Title: AN ORDINANCE AMENDING SECTION 50-37.12 TEMPORARY OR SIDEWALK USE PERMIT, AND 50-37.13 ZONING PERMIT, RELATED TO SIDEWALK CAFES AND ENSURING ADEQUATE PEDESTRIAN ACCESS ON PUBLIC SIDEWALKS

Internal Notes: Ordinance by Steven Robertson

Sponsors:

Enactment Date: 10/12/2015

Attachments: Attachment 1, Attachment 2

Enactment Number: 10413

Recommendation:

Hearing Date:

Drafter: cstafford@duluthmn.gov

Effective Date: 11/12/2015

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	09/28/2015	read for the first time				
1	City Council	10/12/2015	adopted				Pass
1	Mayor	10/12/2015	approved				
1	City Clerk	10/12/2015	attested				

Text of Legislative File 15-083-O

AN ORDINANCE AMENDING SECTION 50-37.12 TEMPORARY OR SIDEWALK USE PERMIT, AND 50-37.13 ZONING PERMIT, RELATED TO SIDEWALK CAFES AND ENSURING ADEQUATE PEDESTRIAN ACCESS ON PUBLIC SIDEWALKS

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-37.12 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.12 ~~Temporary or~~ Sidewalk use permit.

This Section applies to ~~temporary~~ 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.

A. Application.

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

B. 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 ~~temporary or~~ 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;

C. 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 ~~5~~ seven feet from the curb and at least ~~five~~ 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 2. That Section 50-37.13 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.13 Zoning permit.

This Section applies to a variety of permits covering development, redevelopment, and natural resources protection where the land use is a permitted use and the city must confirm whether the application complies with all other applicable provisions of this Chapter. The specific permits included in this Section are summarized in Table 50-37.13-1 below. [See Attachment 1, Table 50-37.13-1, Zoning Permits]

A. Application.

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

B. Procedure.

1. The building official shall review and make a decision on an application for a zoning permit based on the criteria in subsection C below. The building official 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;
2. All buildings, structures and improvements must be constructed and maintained, and all land uses must be operated, in accordance with the terms and conditions of this Chapter and any zoning permit issued pursuant to this Section 50-37.13;

C. General criteria.

The building official shall approve the application, or approve it with modifications, if the building official determines that the application complies with all applicable provisions of this Chapter;

D. Additional provisions for specific areas and types of permits.

1. Shoreland permit.

No building or zoning permit for land within any shoreland shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.D;

2. Erosion and sediment control permit (ESCP).

No land disturbance activity that requires an erosion and sediment control permit (ESCP) as indicated in Table 50-18.1.E-1 may be begin until a permit has been obtained. The building official shall refer the application to the city engineer, who shall review the plan to ensure that it complies with the requirements of Section 50-18.1.E. The city engineer may require additional information and may require that any information submitted be verified by a licensed engineer, licensed

surveyor or other technical professional. If the application is denied, the applicant shall be given a summary of the plan's deficiencies. The ESCP permit shall be considered expired only after all construction activities are completed and the entire site is fully stabilized with 70 percent successful establishment of vegetation;

3. Airport environs permit.

No airport environs permit shall be issued unless all of the requirements of Section 50-18.2 have been met. A permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour or topographic features, would violate the provisions of Section 50-18.2;

4. Flood plain permit.

No building or zoning permit for land within any flood plain shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.C.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

Attachment A, Table 50-37.13-1, Zoning Permits

Table 50-37.13-1: Types of Zoning Permits	
Type of Permit	Primary Compliance Requirement
<u>Flood Plain Permit</u>	<u>Floodplains (Subsection 50-18.1.C)</u>
Shoreland Permit	Shorelands (Subsection 50-18.1.D)
Erosion and Sediment Control Permit	Temporary Soil and Erosion Control (Subsection 50-18.1.E)
<u>Temporary Use Permit</u>	<u>Temporary Land Uses (Section 50-19, 50-20.6)</u>
Sign Permit	Signs (Section 50-27)
Fence Permit	Fences and Walls (Section 50-26.4)
Airport Environs Permit	A-O Airport Environs Overlay district (Section 50-18.2)