

3.7 Checklist

Concurrent Use of Streets Permit

This permit is needed for construction of a skywalk or any other application requesting concurrent use of the street surface, air rights above the street, or land beneath the street. It does not apply to applications for a sidewalk café or eating area or a bicycle parking area (see Sidewalk Use Permit). See UDC Section 50-37.7 for more information. Note: a concurrent use permit cannot be issued in order to satisfy the off-street parking spaces requirement of the UDC.

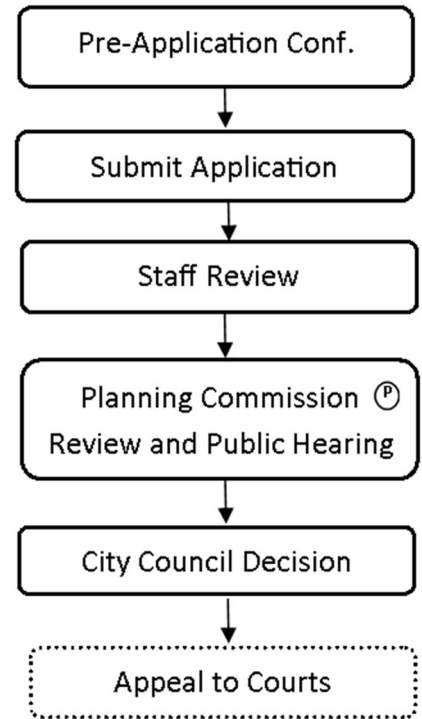
Starting the Application Process

- Call 218-730-5580 or email planning@duluthmn.gov to schedule a pre-application meeting. The pre-application meeting is intended to discuss the application process and general timeline. A comprehensive review of the proposed project is not possible at this meeting; detailed review of the project will occur once a complete application, with sufficient supporting information and exhibits, is submitted.

Your Application

- Submit your application materials by the Planning Commission application deadline. There are numerous in-person and electronic application methods available; visit <https://duluthmn.gov/planning-development/land-use-zoning-and-applications/applications-checklists/> for current information. Your application must include the following:
 - Application Cover Sheet, available at <https://duluthmn.gov/planning-development/land-use-zoning-and-applications/applications-checklists/>, and applicable fee
 - Survey of the property (generally required unless explicitly waived by city staff); and a site plan with accurate depiction of the lot lines, existing and proposed structures, parking, and any other relevant features, and that clearly shows the portion of the right of way to be used or occupied by the applicant. **Important note: Until the exhibit has been reviewed, and approved, by the City Engineering, the application is considered incomplete.**
 - Legal description of the proposed right of way to be used or occupied by the applicant
 - Contact your insurance provider about the need, if the application is approved, of amending your insurance policy to list the City as an additional insured. The City will need proof before any concurrent use permit ordinance is effective (typically set at \$1,500,000 for bodily injuries, \$500,000 for property damage, \$1,500,000 single limit coverage, but may be lower or higher based upon the scope and impacts of the project)

Concurrent Use of Street Permit



Ⓟ Indicates Public Hearing Required

Important Dates

Application Deadline:

Sign Notice Placed:

Planning Commission:

City Council (1st read)*:

City Council (2nd read)*:

Effective*:

**Please note that these dates are approximate guidelines and may change*

Applications for wireless cellular facilities in the public right of way (small cell/micro cell), regardless if located on city infrastructure (light poles, etc) or private or MnDOT/Minnesota Power/County etc infrastructure, must also submit:

- Engineering drawings signed by a professional engineer which show the location of all above and underground equipment or cabling to be installed, including the route and location for backhaul facilities. Plans should include information on restoration of the right-of-way, any temporary or permanent obstructions of the sidewalk or street, include any traffic control plans, and indicate any conflicts with field verified existing utilities. Plans shall include construction specifications and product specifications for all installations, including diagrams and shop drawings for the small wireless facility. Plans shall indicate ownership of existing and proposed equipment and wiring. Restoration and penalties shall be as required in city code Sec. 45. Hand hole or Pull/Splice Vaults shall be installed in accordance with city standards.
- Applicant shall obtain a radio frequency interference study carried out by an independent professional radio frequency engineer (“RF Engineer”) that shows that the applicant’s intended use will not interfere with any existing, licensed communications facilities, as well as any of the city’s licenses or unlicensed communications facilities which are located on or near the structure. The RF Engineer shall provide said evaluation no later than 45 days after frequencies are provided by the city. Applicant shall not transmit or receive radio waves at the wireless support structure until such evaluation has been satisfactorily completed. If upon applicant’s initial radio frequency transmissions, the city deems a radio frequency emissions survey is necessary, the applicant shall be responsible to hire a RF Engineer and pay for all costs of such survey.
- Applicant shall identify all power sources, and indicate connection and ownership of power source, providing evidence of approval by other entities besides the city when applicable. Indicate location of any new meters as may be required.
- Applicant will locate any underground items in accordance with Gopher State Once Call rules and the applicant or subsequent owner of the small wireless facility shall relocate any underground facilities found to be in conflict with existing or future city utility or street projects.
- Any other relevant information requested by the City Engineer.
- Statement indicating how the project is adhering to the small cellular wireless facilities aesthetic design criteria (19-0027R)

After Submitting Your Application

1. Determination of Completeness. Within 15 business days of your application, you should expect to:

- Receive an “Applicant Letter,” which acknowledges a complete application, shares the date of the Planning Commission meeting and the assigned staff person, and notifies you of State-mandated deadlines for the City to make a decision, **OR**
- Receive notification that your application is incomplete, with details on further information to submit.

2. Public Notice.

You are required to post a sign notice on the property at least two weeks before the date of the public hearing. See UDC Section 50-37.1.H for information on size, placement, and content of each sign; you may want to contact a sign company or printing company to have the sign made. You must provide evidence that the signs were in place; *submit photo(s) of the signs to the Planning Division at least two weeks before the date of the public hearing.*

3. Staff Review. Planning staff will evaluate your application and prepare a staff report. When considering a recommendation for a concurrent use of streets permit, Planning Staff generally review the necessity of the request to protect the health, safety, and welfare of the city, how the proposal will only occupy the portion of the public easement not being physically used or occupied by the public, and that it will not inconvenience the public's use of the easement, as well as any additional UDC criteria and other related factors.

- You will receive an email with the Planning Commission agenda and a link to this staff report about 5 days prior to the meeting.

4. Planning Commission Hearing. Planning Commission meetings are scheduled at 5:00 pm on the second Tuesday of each month. **We ask that applicants or an agent attend this meeting.** Planning Commission will hold a public hearing and make a recommendation to adopt, adopt with modifications, or deny the application.

5. City Council Decision. The Planning Commission decision will be forwarded to City Council in the form of an ordinance, which will require two readings. City Council will make a decision whether to approve the permit, approve it with modifications, or deny it.

If the City Council approves the ordinance, the Planning staff will send a copy of the certified document to the applicant once all the conditions have been met (such as proof of listing the City as an additional insured in the applicant's insurance policy). Annual updates of insurance coverage will be required from the applicant in most cases.

Note that other City codes may apply to your project. Please be aware of any applicable Building Code (Construction Services Division), Fire Code (Life Safety Division), and stormwater/engineering (Engineering Division) regulations. The zoning approval may be only the first step in a several step process.

*If a **wetland delineation** is needed for the project to proceed, it must be reviewed and approved before any zoning application will be accepted. If a **wetland replacement plan** is required for a project to proceed, it must have been submitted and accepted as a complete application before the project zoning application will be accepted.*