SEOUL METROPOLITAN GOVERNMENT ORDINANCE ON THE MANAGEMENT OF CFOMMERCIAL FACILITIES ON SIDEWALKS

Enactment No. 3889, Jul. 16, 2001
Partial Amendment No. 4057, Jan. 10, 2003
Partial Amendment No. 4581, Nov. 01, 2007
Amendment of Other Laws No. 4616, Apr. 03, 2008
Partial Amendment No. 4660, Jul. 30, 2008
Partial Amendment No. 4747, Mar. 18, 2009
Partial Amendment No. 4874, Nov. 11, 2009
Amendment of Other Laws No. 4907, Jan. 07, 2010
Partial Amendment No. 5101, May. 26, 2011
Amendment of Other Laws No. 5137, Jul. 28, 2011
Partial Amendment No. 5167, Sep. 29, 2011
Amendment of Other Laws No. 5208, Dec. 29, 2011
Partial Amendment No. 5503, May. 16, 2013
Partial Amendment No. 5559, Aug. 01, 2013
Amendment of Other Laws No. 5767, Dec. 11, 2014
Partial Amendment No. 5922, May. 14, 2015
Amendment of Other Laws No. 5948, Jul. 30, 2015
Partial Amendment No. 5978, Jul. 30, 2015
Amendment of Other Laws No. 6700, Jan. 04, 2018
Partial Amendment No. 6771, Jan. 04, 2018
Partial Amendment No. 6772, Jan. 04, 2018
Amendment of Other Laws No. 7046, Mar. 28, 2019
Amendment of Other Laws No. 7154, May. 16, 2019
Partial Amendment No. 7464, Jan. 09, 2020
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Amendment of Other Laws No. 7782, Dec. 31, 2020
Partial Amendment No. 8021, May. 20, 2021
Partial Amendment No. 8157, Sep. 30, 2021

Article 1 (Purpose)

The purpose of this Ordinance is to provide for matters necessary for the reduction and management of commercial facilities on sidewalks pursuant to the Road Act, the Enforcement Decree of the said Act and the Public Property and Commodity Management Act in order to facilitate citizens' mobility by foot and improve the urban environment.
[This Article Wholly Amended by Ordinance No. 4874, No. 11, 2009; Ordinance No. 5167, Sep. 29, 2011]

Article 2 (Definitions)

Terms used in this Ordinance shall be defined as follows:
1. "Commercial facility on sidewalks" (hereinafter referred to as "facilities") means a facility under subparagraphs 2 and 3, which shall be installed in accordance with the specifications prescribed in attached Table 1;
2. "Street vending stall" means a facility installed on a sidewalk mainly for purposes of selling newspapers, magazines, beverage or snack foods or selling and recharging transport cards;
3. "Shoe repair booth" means a facility installed on a sidewalk mainly for the purpose of repairing or cleaning shoes;
4. "Road" means a road under the control of the Mayor of the Seoul Metropolitan Government (hereinafter referred to as the "Mayor") as the authority for the management of roads;
5. "Sidewalk" means the part of a road where mobility of pedestrians (including baby carriages and wheelchairs for walk aid) is permitted, indicated by borders with a line of curbstones (referring to a line of stones or any similar material dividing a road into lanes for vehicles and sidewalks; the same shall apply hereinafter), safety signs, or other similar structures;
6. "Operator" means a person who uses, or profits from, a facility under this Ordinance with a permit to occupy a road (hereinafter referred to as "occupancy permit").
[This Article Wholly Amended by Ordinance No. 4874, No. 11, 2009; Ordinance No. 5101, May 26, 2011]

Article 3 (Occupancy Permits)

(1) A person who intends to continue the operation of a facility shall file an application for a permit to occupy a road in attached Form 1 with the Mayor by not later than 30 days before the permitted period of occupancy ends. <Amended by Ordinance No. 4874, No. 11, 2009>
(2) The Mayor shall issue a permit to occupy a road in attached Form 2 to the operator who is permitted to occupy a road. In such cases, the period of permitted occupancy shall not be more than one year.

(3) As regards an operator whose occupancy permit expires on December 31, 2009, the renewal of the permit shall be permitted for each year, only if it is found as a result of an inquiry made every two years, that the value of his/her assets is less than 200 million won after subtracting the amount under paragraph (4) from an aggregate of real property, the lease guarantee deposits under Article 3 (1) 1 (c) of the Enforcement Rule of the National Basic Living Security Act, and financial assets under Article 3 (1) 2 of said Act, owned by the operator him/herself and his/her spouse: Provided, That the renewal in 2010 shall be permitted twice, and each period of renewal shall be six months respectively. <Amended by Ordinance No. 4874, No. 11, 2009>
(4) The amounts that shall be subtracted pursuant to paragraph (3) shall be as specified in the following subparagraphs: <Amended by Ordinance No. 4874, No. 11, 2009>
1. Lease guarantee deposits received;
2. Loans from financial institutions and private money-lenders: Provided, That loans from private money-lenders shall be subtracted by a maximum of 100 million won only where such loans are recognizable objectively with notarized certificates and other similar documents.
(5) A person who intends to have a road occupancy permit renewed pursuant to paragraph (3) shall submit the following documents to the Mayor: Provided, That a beneficiary under subparagraph 1 of Article 2 of the National Basic Living Security Act may be exempt from submitting such documents:
1. Resident registration cards with which the operator him/herself and his/her spouse can be identified;
2. A written consent to inquiries into real property and financial assets;
3. Lease contracts.
(6) An operator shall submit an out-of-court settlement deed, in which a settlement is reached in the court having the jurisdiction over each Gu office with regard to the following matters, to the Mayor within four months after he/she obtains a permit under paragraph (1):<Amended by Ordinance No. 5167, Sep. 29, 2011>
1. When a road occupancy permit is revoked or it is not renewed, an operator shall transfer the relevant commercial facilities on sidewalks to a third party and restore the area for road occupancy to the original state;
2. Other matters deemed necessary and thus requested by the Mayor.

Article 4 (Installation and Operation of Committee, etc.)

(1) The Mayor shall establish a committee for the operation of commercial facilities on sidewalks (hereinafter referred to as the "Committee") to have the Committee deliberate on matters regarding the appropriate distribution, operation, and management of facilities. <Amended by Ordinance No. 4874, No. 11, 2009; Ordinance No. 5167, Sep. 29, 2011>
1. Where a permit to occupy a road has been revoked or the permit has been failed to be renewed, an operator shall return facilities and restore the occupied area on the road to the original state;
2. Other matters deemed necessary and thus requested by the Mayor.
(2) The Committee shall be comprised of not more than ten members, including one chairperson and one vice chairperson, and members shall be commissioned or appointed by the Mayor in accordance with the following subparagraphs when the chairperson holds a meeting, and their commission shall be revoked or they shall be dismissed at the time when the relevant meeting is closed. <Amended by Ordinance No. 4874, No. 11, 2009; Ordinance No. 5137, Jul. 28, 2011; Ordinance No. 5167, Sep. 29, 2011>
1. Seven committee members shall be commissioned from among lawyers, social welfare specialists, representatives from civic organizations, Members of the Seoul Metropolitan Council, and other experts from various fields of society, and the remaining three members shall be appointed from related public officials;
2. The Director General of the City Safety Headquarters shall serve as the chairperson of the Committee, and the facility safety planning officer shall serve as the vice chairperson. If the chairperson is unable to perform his/her duties due to an extenuating circumstance, the vice chairperson shall act on behalf of the chairperson.
(3) The chairperson shall convene meetings of the Committee and shall preside over such meetings.
(4) A meeting of the Committee shall be duly formed with the attendance of at least two-thirds of incumbent members, and a resolution shall be adopted by the affirmative voting of at least two-thirds of members present at the meeting.
(5) No person who attends a meeting of the Committee shall divulge any confidential information known to him/her in the course of performance of his/her duties.
(6) Members who attend a meeting of the Committee shall be given allowances and reimbursed for travel expenses in accordance with the Seoul metropolitan Government Ordinance on Payment of Allowances and Travel Expenses of Committees, and expenses incurred in surveys, research, and the collection of data in connection with the deliberation on items of agenda or the recommendation of policies may be reimbursed within budget limits.<Amended by Ordinance No. 5167, Sep. 29, 2011>
(7) Deleted.<by Ordinance No. 5167, Sep. 29, 2011>

Article 5 (Restriction on Renewal of Occupancy Permits)

Notwithstanding the provisions of Article 3 (3), the Mayor shall not renew an occupancy permit in any of the following cases:
1. Where an operator dies (excluding cases where his/her spouse succeeds to the business);
2. Where the rights or obligations under the occupancy permits are transferred to a third person;
3. Where an operator fails to submit an out-of-court settlement deed in accordance with Article 3 (6);

4. Where demerit points accumulated during the immediately previous permitted period are not less than 100 points.
[This Article Wholly Amended by Ordinance No. 4874, Nov. 11, 2009]

Article 6 (Loan Agreement)

(1) A person who intends to use a facility owned by a local government shall file an application for the loan of the facility in attached Form 1 with the Mayor and shall enter into a loan agreement with the Mayor on the loan of the facility in attached Form 3. In such cases, the operator shall enter into an insurance policy on the liability for damage to the facility before he/she enters into the loan agreement to attach the certificate of the insurance to the loan agreement.
(2) If a fire breaks out in a facility or a facility is destroyed or damaged due to a cause attributable to the operator of the facility, the operator shall reinstate the facility.
(3) Article 3 shall apply mutatis mutandis to the application for a loan agreement and the period or renewal of such loan agreement.

Article 7 (Management of Facilities)

(1) In order to manage facilities efficiently, the Mayor shall prepare and preserve records of the current status of the management of facilities in attached Form 4, display such records on each facility in attached Form 5 so that ordinary citizens can easily ascertain the obligations that each operator performs, and shall issue an operator's certificate in attached Form 6 to the operator.
(2) Each operator shall post an operator's certificate issued pursuant to paragraph (1) on the facility so that every one can inspect it. <Newly Inserted by Ordinance No. 4874, Nov. 11, 2009>
(3) An operator shall wash the exterior of the facility from time to time and keep the surroundings of the facility clean. <Newly Inserted by Ordinance No. 4874, Nov. 11, 2009>
(4) If an operator violates paragraph (2) or (3), the Mayor may issue an order for correction. <Newly Inserted by Ordinance No. 4874, No. 11, 2009>
(5) The Mayor shall inspect the state of operation of each facility at least once a month and shall take necessary measures against an operator who violates any relevant Act or subordinate statute or breaches any condition of the permit in the course of running his/her business.

Article 8 (Relocation of Facilities)

(1) The Mayor shall endeavor to keep the balance in the distribution of facilities between autonomous Gus and may adjust the location of a facility, install a replacement, or take any other necessary measure, if he/she considers it necessary to improve the environment for citizens' mobility by foot or the urban view.
(2) The Mayor may designate facilities as densely concentrated facilities or improperly situated facilities in accordance with the following guidelines and may take measures necessary for the relocation of such facilities:
1. Densely concentrated facilities:
(a) Street vending stalls situated within a distance of not more than 50 meters between the street vending stalls;
(b) Shoe repair booths situated within a distance of not more than 50 meters between the shoe repair booths;
2. Improperly situated facilities:
(a) Facilities installed on a sidewalk with a width of not more than four meters;
(b) Facilities situated within a distance of not more than five meters from an entrance of a subway station or an underpass to obstruct citizens' mobility by foot;
(c) Facilities situated around a bus stop or a taxi stand to obstruct citizens' view of buses or taxies approaching the stop or stand;
(d) Facilities situated in an intersection or any similar place to significantly obstruct vehicle drivers' perception of traffic flow;
(e) Other facilities that cause inconvenience to citizens and thus that shall be relocated.
(3) When the cause of designation is terminated as a result of the relocation of a facility designated as a densely concentrated facility or an improperly situated facility, the Mayor shall immediately revoke the designation of the densely concentrated facility or the improperly situated facility.
[This Article Newly Inserted by Ordinance No. 4874, No. 11, 2009]

Article 9 (Prohibition of Activities)

(1) No operator shall transfer or delegate or assign a right or an obligation under a road occupancy permit or the loan of a facility to a third party, offer such a right or an obligation as security to a third party, or change the permitted place of occupancy at will. <Amended by Ordinance No. 4874, No. 11, 2009>
(2) No operator shall alter or damage the structure of a facility without the Mayor's approval, and if an operator violates such order, the Mayor may order him/her to reinstate the facility within a reasonable period specified by the Mayor. <Newly Inserted by Ordinance No. 4874, No. 11, 2009>
(3) No operator shall conduct any of the following activities in his/her facility, and the Mayor may issue an order to correct a violation, if an operator violates such order: <Amended by Ordinance No. 4874, No. 11, 2009>
1. Piling or selling commodities or any other goods on a road outside of the permitted place or area of occupancy;
2. Displaying an excessive quantity of commodities on the exterior walls of a facility and conducting commercial activities at the outside of the facility;

3. Closing down a facility for 15 days or longer, except where a facility is temporarily shut down with the Mayor's prior approval due to illness or any other unavoidable cause or event: Provided, That ex post facto approval may be granted, if it is impossible to obtain prior approval due to any reason and such reason is proved with documents submitted;
4. Allowing any person, other than an operator or one of the operator's lineal family members, to operate the facility;
5. Activities prohibited in street vending stalls:
(a) Handling or selling medicines or chemicals;
(b) Selling books or goods inciting obscenity or decadence;
(c) Cooking and selling foods: Provided, That it shall be permitted to sell foods only where hotdogs, hamburgers, sandwiches, dried meat or fishes, or dried seaweed rolls, which shall be kept warm by electrical cooking appliances, are sold with the Mayor's prior approval;
(d) Other activities prohibited by any other Act, subordinate statute, or ordinance;
6. Activities prohibited in shoe repair booths;
(a) Handling or selling goods, other than cleaning or repairing shoes or repairing or cutting keys;
(b) Activities under any item of subparagraph 5.

Article 10 (Demerit Points, etc.)

The Mayor may impose demerit points on a violation of this Ordinance in accordance with attached Table 2 in addition to an order for correction or an order for reinstatement, and shall revoke an occupancy permit immediately, if demerit points accumulated during a permitted period reach or exceed 120 points.
[This Article Newly Inserted by Ordinance No. 4874, No. 11, 2009]

Article 11 (Revocation of Permits)

If an operator commits any of the following offences, the Mayor shall revoke his/her permit irrespective of demerit points and accumulated points under Article 10:
1. Where an operator refuses to accept the adjustment or replacement of a facility in accordance with Article 8 (1);
2. Where an operator engages in any activity prohibited in accordance with Article 9 (1);
3. Where an operator fails to comply with an order issued pursuant to Article 9 (2);
4. Where an operator commits any identical violation under any provision of Article 9 (3) 3 through 6 even after orders to correct such violations have been issued to him/her twice during the same permitted period.
[This Article Wholly Amended by Ordinance No. 4874, No. 11, 2009]

Article 12 (Removal of Facilities)

(1) A person who has installed a facility shall remove the facility in any of the following cases: <Amended by Ordinance No. 4874, No. 11, 2009>
1. Where a person fails to have the occupancy permit renewed pursuant to Article 3 or 5;
2. Where a person has the permit revoked pursuant to Article 10 or 11.
(2) If a person who has installed a facility fails to remove the facility within the period specified for the removal of the facility pursuant to paragraph (1), the Mayor shall remove it in accordance with the procedure and methods for special cases to which administrative vicarious execution shall apply pursuant to Article 65 of the Road Act.
(3) No one shall install any new facility, other than a permitted facility, as of the enforcement date of Ordinance No. 3889 or install any facility as a substitute for the facility removed because of the revocation of the permit.

Article 13 (Prior Notice of Disposition)

When the Mayor intends to issue an order for correction under Article 7 (4) or 9 (3), issue an order for reinstatement under Article 9 (2), impose demerit points or revoke a permit pursuant to Article 10 or 11, or remove a facility pursuant to Article 12, he/she shall complete the procedure prescribed by the Administrative Procedures Act, such as prior notice thereof.
[This Article Wholly Amended by Ordinance No. 4874, No. 11, 2009]

Article 14 (Imposition and Collection of Occupancy Charge, etc.)

(1) The Mayor shall impose occupancy charges and loan charges on an operator and collect such charges from the operator in accordance with the following guidelines: <Amended by Ordinance No. 4874, No. 11, 2009>
1. Occupancy charge: An amount determined in accordance with the Seoul Metropolitan Government Ordinance on the Permission for Occupancy of Roads and the Collection of Occupancy Charges, etc.;
2. Loan charges:
(a) The loan charge shall be 10 percent of the value of each facility: Provided, That the loan charge for a facility replaced or renovated on or after January 1, 2000 shall be 7 percent of the value of the facility;
(b) Notwithstanding the provisions of item (a), the loan charge shall be imposed on a facility designated as a densely concentrated facility pursuant to Article 8 (2) for the loan period from July 1, 2010 by adding 7 percent of the value of the facility to the amount under item (a), while the loan charge to a facility designated as an improperly situated facility shall be imposed by adding 3 percent

of the value of the facility.
(2) Except as otherwise provided for in paragraph (1) in regard to necessary matters regarding the imposition and collection of occupancy charges and loan charges, the occupancy charges shall be governed by the Road Act and the Seoul Metropolitan Government Ordinance on the Permission for Occupancy of Roads and the Collection of Occupancy Charges, etc., while the loan charges shall be governed by the Public Property and Commodity Management Act and the Seoul Metropolitan Government Ordinance on Public Property and Commodity Management.

Article 15 (Delegation of Administrative Work)

The Mayor shall delegate the following administrative work to the head of each Gu having jurisdiction over an area in which a facility is situated:
1. Road occupancy permits and loan agreements under Articles 3, 5, and 6;
2. The management of facilities under Article 7;
3. The relocation of facilities, orders for reinstatement, orders for correction, the imposition of demerit points, the management of facilities, the revocation of permits, the removal of facilities, and the prior notice of the removal or disposal of facilities under Articles 8 through 13;
4. The imposition and collection of road occupancy charges and the collection of loan charges under Article 14.
[This Article Wholly Amended by Ordinance No. 4874, No. 11, 2009]