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
Partial Amendment No. 7720, Oct. 05, 2020
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 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. <Amended by Ordinance No. 5167, Sep. 29, 2011; Ordinance No. 5559, Aug. 1, 2013>

[This Article Wholly Amended by Ordinance No. 4874, Nov. 11, 2009]

Article 2 (Definitions)

The terms used in this Ordinance shall be defined as follows: <Amended by Ordinance No. 4874, Nov. 11, 2009; Ordinance No. 5101, May 26, 2011; Ordinance No. 5503, May 16, 2013; Ordinance No. 5559, Aug. 1, 2013; Ordinance No. 5922, May 14, 2015>

1. The term "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. The term "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. The term "shoe repair booth" means a facility installed on a sidewalk mainly for the purpose of repairing or cleaning shoes;
4. The term "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. The term "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. The term "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");
7. Persons eligible to operate facilities referred to in Article 12-2 among the facilities operated by an operator shall be persons in the following order: persons who require support for living among persons wounded for a righteous cause under subparagraph 3 of Article 2 of the Seoul Metropolitan Government Ordinance on the Respectful Treatment and Support to Persons Killed or Wounded for a Righteous Cause, persons who require assistance for self-support among homeless persons, etc. under subparagraph 1 of Article 2 of the Seoul Metropolitan Government Ordinance on the Support for Welfare and Self-Reliance of the Homeless, Etc., and

persons who require support for living among persons with disabilities under Article 2 (1) of the Act on Welfare of Persons with Disabilities (hereinafter referred to as "specially-supported persons").

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, Nov. 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, the renewal of the permit shall be permitted 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 300 million won after subtracting the amount under paragraph (4) from an aggregate of real property, the lease guarantee deposits under Article 5-3 (1) 1 (c) of the Enforcement Decree of the National Basic Living Security Act, and financial assets under Article 5-3 (1) 2 of the same Enforcement Decree, owned by the operator him/herself and his/her spouse: Provided, That a person the value of whose assets exceeds 300 million won shall be given a one-year grace period without restricting the renewal of the permit promptly. <Amended by Ordinance No. 6772, Jan. 4, 2018>

(4) The amounts that are subtracted pursuant to paragraph (3) shall be as specified in the following subparagraphs: <Newly Inserted by Ordinance No. 4874, Nov. 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 an 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: <Amended by Ordinance No. 4874, Nov. 11, 2009; Ordinance No. 5503, May 16, 2013>

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; Ordinance No. 5503, May 16, 2013>

1. When an occupancy permit is revoked or it is not renewed, an operator shall transfer the relevant facilities 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, Nov. 11, 2009>

(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 a meeting is held, and their commission shall be revoked or they shall be dismissed at the time the relevant meeting is closed: <Amended by Ordinance No. 4874, Nov. 11, 2009; Ordinance No. 5137, Jul. 28, 2011; Ordinance No. 5167, Sep. 29, 2011; Ordinance No. 5208, Dec. 29, 2011; Ordinance No. 5503, May 16, 2013; Ordinance No. 5767, Dec. 11, 2014; Ordinance No. 5978, Jul. 30, 2015; Ordinance No. 6771, Jan. 4, 2018>

1. Five members of the Committee 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, two members shall be commissioned from among the operators of commercial facilities on sidewalks, and the remaining three members shall be appointed from related public officials;
2. The Chief Officer of Safety Management Bureau shall serve as the chairperson of the Committee, and the Director-General of Safety Management Bureau 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 two operators of commercial facilities on sidewalks who serve as members of the Committee shall be one street vending stall operator and one shoe repair booth operator commissioned by the random drawing of lots from among each street vending stall operator and each shoe repair booth operator recommended by the heads of autonomous Gus.

(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 the Payment of Committee Allowances and Travel Expenses, 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 the budget. <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)

(1) Notwithstanding the provisions of Article 3 (3), the Mayor shall not renew an occupancy permit in any of the following cases: <Amended by Ordinance No. 5503, May 16, 2013>
1. Where an operator dies (excluding cases where his/her spouse succeeds to the business);
2. Deleted; <by Ordinance No. 5503, May 16, 2013>
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.
(2) If any grounds for the restriction on renewal of an occupancy permit prescribed in paragraph (1) occurs during the relevant year, the loan agreement under Article 6 shall not be entered into in the following year. <Newly Inserted by Ordinance No. 5503, May 16, 2013>
[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.
[This Article Wholly Amended by Ordinance No. 4874, Nov. 11, 2009]

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 matters to be observed by operators in attached Form 5 on each facility so that ordinary citizens can easily ascertain such matters, and issue an operator's certificate in attached Forms 6 and 7 to the operator. In such cases, an operator and one person from among the operator’s spouse and lineal family members shall be listed on an operator’s certificate, with their photographs attached, and the relevant facility may be operated only by the persons listed on the operator’s certificate. <Amended by Ordinance No. 5978, Jul. 30, 2015>
(2) Each operator shall post an operator's certificate issued pursuant to paragraph (1) on each designated place in and outside of the relevant facility so that every one can inspect the certificate. <Amended by Ordinance No. 5978, Jul. 30, 2015>
(3) An operator shall wash the exterior of the relevant 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, Nov. 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.
(6) Where it is confirmed that an operator has violated any of the matters to be observed by operators under paragraphs (1) and (2), an amount prescribed by the Mayor may be paid as a reward to the person who has detected and reported such violation. <Newly Inserted by Ordinance No. 5978, Jul. 30, 2015>

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, Nov. 11, 2009]

Article 9 (Prohibition of Activities)

(1) No operator shall transfer or delegate or assign a right or an obligation under an 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, Nov. 11, 2009; Ordinance No. 5503, May 16, 2013>
(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, Nov. 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, Nov. 11, 2009; Ordinance No. 6700, Jan. 4, 2018>
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, Nov. 11, 2009]

Article 11 (Revocation of Permits)

If an operator commits any of the following offenses, the Mayor shall revoke his/her permit irrespective of demerit points and accumulated points under Article 10: <Amended by Ordinance No. 4874, Nov. 11, 2009; Ordinance No. 5503, May 16, 2013; Ordinance No. 5978, Jul. 30, 2015>
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;
5. Where an operator falls under Article 63 (1) 3 of the Road Act;
6. Where a loan agreement is cancelled or terminated.

Article 11-2 (Cancellation or Termination of Loan Agreement)

The Mayor may cancel or terminate the loan agreement entered into with an operator in any of the following cases: <Amended by Ordinance No. 5978, Jul. 30, 2015>

1. Where the operator has failed to pay the loan charges notwithstanding the final demand notice given by the Mayor fixing the period of three months for his/her failure to make payment within the time limit for payment;
2. Where the operator has turned out to have obtained the loan of the facility by submitting false evidential documents or by any other fraudulent means;
3. Where the occupancy permit has been revoked because the operator fell under Article 63 (1) 3 of the Road Act;
4. Where the occupancy permit has been revoked under Article 10 or 11 of the Ordinance.
[This Article Newly Inserted by Ordinance No. 5503, May 16, 2013]

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, Nov. 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 74 of the Road Act. <Amended by Ordinance No. 5978, Jul. 30, 2015>
(3) No one shall install any new facility other than a facility permitted as of August 1, 2008 (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. <Amended by Ordinance No. 5503, May 16, 2013>

Article 12-2 (Special Provisions on Removal of Facilities)

(1) Notwithstanding Article 12 (3), specially-supported persons may be permitted to operate individually or jointly the facilities subject to removal on or after January 1, 2014.
(2) A specially-supported person may be permitted to operate a facility for three years and such permission may be extended only once following a resolution of the Committee or the Homeless Policy Advisory Committee.
(3) Part of managerial affairs, such as the selection of specially-supported persons or guidance on operation, may be performed by entrusting it to related offices.
(4) Provisions of Article 5 (1) 1 on the succession to the operator's spouse shall not apply to specially-supported persons.
(5) Provisions of Article 9 (3) 4 on the operation through an operator's lineal family member shall not apply to homeless persons from among specially-supported persons. <Amended by Ordinance No. 5922, May 14, 2015>
[This Article Newly Inserted by Ordinance No. 5559, Aug. 1, 2013]

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, Nov. 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:
1. Occupancy charge: An amount determined in accordance with the Seoul Metropolitan Government Ordinance on the Permission to Occupy Roads for Use and the Collection of Fees for Occupancy and Use, 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 to Occupy Roads for Use and the Collection of Fees for Occupancy and Use, 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.
[This Article Wholly Amended by Ordinance No. 4874, Nov. 11, 2009]

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: <Amended by Ordinance No. 5503, May 16, 2013>

1. 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 occupancy charges and the collection of loan charges under Article 14.

[This Article Wholly Amended by Ordinance No. 4874, Nov. 11, 2009]