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
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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 said Act, and the Public Property and Commodity Management Act in order to facilitate citizens' mobility by foot and to improve the urban environment. <Amended on Nov. 11, 2009; Sep. 29, 2011; Aug. 1, 2013>

Article 2 (Definitions)

The terms used in this Ordinance are defined as follows: <Amended on Nov. 11, 2009; May 26, 2011; May 16, 2013; Aug. 1, 2013; May 14, 2015; Oct. 5, 2020>

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 after obtaining permission to occupy a road (hereinafter referred to as "permission to occupy");
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 the homeless, 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 (Permission to Occupy)

(1) A person who intends to continue the operation of a facility shall file an application for permission 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 on 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 permission shall be granted only if it is found, as a result of an inquiry made every two years, that the value of his or her assets is less than 300 million won after subtracting the amount under paragraph (4) from an aggregate of real estate, 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 himself or herself and his or 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 permission promptly. <Amended on Jan. 4, 2018>
(4) The amounts that are subtracted pursuant to paragraph (3) shall be as specified in the following subparagraphs: <Newly Inserted on 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 permission to occupy 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 on Nov. 11, 2009; May 16, 2013>
1. Resident registration cards with which the operator himself or herself and his or her spouse can be identified;
2. A written consent to inquiries into real estate 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 the respective Gu office with regard to the following matters, to the Mayor within four months after he or she obtains said permission under paragraph (1): Provided, That in cases of an operator who has had permission to occupy renewed, the out-of-court settlement deed submitted before renewal shall suffice, and the period of the out-of-court settlement deed shall be a renewed contract period. <Amended on Jan. 9, 2020; May 20, 2021>
1. Where permission to occupy is revoked or permission to occupy a road is not renewed, the operator shall transfer the relevant facility and restore the area occupied by the road to the original state;
2. Other matters deemed necessary by the Mayor.

Article 4 (Installation and Operation of Committee)

(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 on Nov. 11, 2009>
(2) The Committee shall be comprised of not more than 10 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 on Nov. 11, 2009; Jul. 28, 2011; Sep. 29, 2011; Dec. 29, 2011; May 16, 2013; Dec. 11, 2014; Jul. 30, 2015; Jul. 30, 2015; Jan. 4, 2018; May 16, 2019>
1. Five members of the Committee shall be commissioned from among lawyers, social welfare specialists, representatives of civic groups, 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 among related public officials;
2. The Chief Officer of City Transportation Office shall serve as the chairperson of the Committee, and the Director-General of Pedestrian and Bicycle Bureau shall serve as the vice chairperson. If the chairperson is unable to perform his or 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) Meetings of the Committee shall be convened with the attendance of at least two-thirds of incumbent members, and resolutions shall be adopted by the affirmative vote of at least two-thirds of those present at the meeting.
(5) No person who attends a meeting of the Committee shall divulge any confidential information known to him or her in the course of performance of his or her duties.

(6) Members who attend a meeting of the Committee shall be paid allowances and 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 on Sep. 29, 2011>
(7) Deleted. <Sep. 29, 2011>

Article 5 (Restriction on Renewal of Permission to Occupy)

(1) Notwithstanding the provisions of Article 3 (3), the Mayor shall not renew permission to occupy in any of the following cases: <Amended on Nov. 11, 2009; May 16, 2013>
1. Where an operator dies (excluding cases where his or her spouse succeeds to the business);
2. Deleted; <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 permission to occupy 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 on May 16, 2013>

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. <Amended on Jan. 9, 2020>
(2) If a fire breaks out in a facility or if 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 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 on 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 everyone can inspect the certificate. <Amended on 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 on Nov. 11, 2009>
(4) If an operator violates paragraph (2) or (3), the Mayor may issue an order for correction. <Newly Inserted on 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 statute or regulation or breaches any condition of the permission in the course of running his or 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 on 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 or she considers it necessary to improve the environment for citizens' mobility by foot or the urban view. <Newly Inserted on Nov. 11, 2009>
(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: <Newly Inserted on Nov. 11, 2009>
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. <Newly Inserted on Nov. 11, 2009>

Article 9 (Prohibition of Activities)

(1) No operator shall transfer or delegate or assign a right or an obligation under permission to occupy or the loan of a facility to a third party, offer such right or obligation as security to a third party, or change the permitted place of occupancy at will. <Amended on Nov. 11, 2009; 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 or her to reinstate the facility within a reasonable period specified by the Mayor. <Newly Inserted on Nov. 11, 2009>

(3) No operator shall conduct any of the following activities in his or her facility, and the Mayor may issue an order to correct a violation, if an operator violates such order: <Amended on Nov. 11, 2009; Jan. 4, 2018; May 20, 2021>

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 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, the operator's spouse, 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 statute, regulation or municipal 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)

The Mayor may impose demerit points for a violation of this Ordinance in accordance with attached Table 2 in addition to an order for correction or an order for reinstatement, etc., and shall revoke permission to occupy immediately, if demerit points accumulated during a permitted period reach or exceed 120 points. <Newly Inserted on Nov. 11, 2009>

Article 11 (Revocation of Permission)

If an operator commits any of the following offenses, the Mayor shall revoke his or her permission irrespective of demerit points and accumulated points under Article 10: <Amended on Nov. 11, 2009; May 16, 2013; 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 or 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 on 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 or 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 improper means;
3. Where permission to occupy has been revoked because the operator fell under Article 63 (1) 3 of the Road Act;
4. Where permission to occupy 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 on Nov. 11, 2009>
1. Where a person fails to have the permission to occupy renewed pursuant to Article 3 or 5;
2. Where a person has the permission 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 on 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 permission. <Amended on May 16, 2013>

Article 12-2 (Special Provisions concerning 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 on May 14, 2015>
[This Article Newly Inserted on 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 permission pursuant to Article 10 or 11, or remove a facility pursuant to Article 12, he or she shall complete the procedure prescribed by the Administrative Procedures Act, such as prior notice thereof. <Amended on Nov. 11, 2009>

Article 14 (Imposition and Collection of Fees for Occupancy and Use)

(1) The Mayor shall impose fees for occupancy and use and loan charges on an operator and collect such fees and charges from the operator in accordance with the following guidelines: <Amended on Mar. 28, 2019; Dec. 31, 2020>
1. Fees for occupancy and use: 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 10/100 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 7/100 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 7/100 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 3/100 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 fees for occupancy and use and loan charges, the fees for occupancy and use 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 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. <Amended on Mar. 28, 2019; Dec. 31, 2020>

Article 15 (Delegation of Administrative Work)

The Mayor shall delegate the following administrative work to the head of the competent Gu having jurisdiction over an area in which a facility is situated: <Amended on Nov. 11, 2009; May 16, 2013>
1. Permission to occupy 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 permission, 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 fees for occupancy and use and the collection of loan charges under Article 14.