

SEOUL METROPOLITAN GOVERNMENT ORDINANCE ON CONSTRUCTION OF UTILITY TUNNELS AND COLLECTION OF OCCUPANCY FEES, ETC.

Enactment No. 1000, Dec. 27, 1975
Whole Amendment No. 3908, Sep. 29, 2001
Amendment of Other Laws No. 4131, Jul. 25, 2003
Partial Amendment No. 4252, Jan. 05, 2005
Partial Amendment No. 4416, Jul. 19, 2006
Partial Amendment No. 5133, Jul. 28, 2011
Partial Amendment No. 5650, Jan. 09, 2014
Amendment of Other Laws No. 6016, Oct. 08, 2015
Amendment of Other Laws No. 6851, Mar. 22, 2018
Partial Amendment No. 7032, Mar. 28, 2019
Amendment of Other Laws No. 7423, Dec. 31, 2019

Article 1 (Purpose)

The purpose of this Ordinance is to provide for matters necessary for the construction and collection of occupancy fees for utility tunnels in accordance with the National Land Planning and Utilization Act and the Enforcement Decree of the same Act. <Amended by Ordinance No. 4131, Jul. 25, 2003; Ordinance No. 4252, Jan. 5, 2005; Ordinance No. 5133, Jul. 28, 2011; Ordinance No. 5650, Jan. 9, 2014>

Article 2 (Definitions)

The terms used in this Decree shall be as follows:

1. The term "utility tunnel" means the utility tunnel under subparagraph 9 of Article 2 of the National Land Planning and Utilization Act (hereinafter referred to as the "Act");
2. The term "occupancy fee" means the expenses that a person who fails to bear expenses incurred in installing a utility tunnel (including a person who fails to make a full payment of the amount borne; hereinafter the same shall apply) shall bear where he or she permanently occupies the utility tunnel;
3. The term "usage fee" means the expenses that a person who fails to bear expenses incurred in installing a utility tunnel shall bear where he or she temporarily occupies the utility tunnel (referring to temporary occupancy for up to five years; hereinafter the same shall apply);
4. The term "management expenses" means the expenses spent for maintenance of utility tunnels, including costs for rebuilding, upkeep, disaster relief, illumination, drainage, etc., other equipment expenses, and personnel expenses.
[This Article Wholly Amended by Ordinance No. 7032, Mar. 28, 2019]

Article 3 (Formulating, etc. Framework Plans to Construct Utility Tunnels)

(1) The Mayor of the Seoul Metropolitan Government (hereinafter referred to as the "Mayor") shall establish a ten-year framework plan for construction of utility tunnels (hereinafter referred to as the "framework plan"), to efficiently construct utility tunnels: Provided, That the Mayor may examine the appropriateness of such plan every five years and amend it, if necessary.

(2) The framework plan shall include the following:

1. Direction-setting for constructing utility tunnels;
2. Status of the area or zone to accommodate utility tunnels;
3. Routes of roads for utility tunnels and the order of priority of such construction by route;
4. Matters on construction and management of utility tunnels;
5. Expenses to be incurred in utility tunnel construction and financing methods;
6. Other matters deemed necessary for utility tunnel construction.

(3) Where the Mayor sets or changes the order of priority in paragraph (2) 3, he or she shall preferentially take into consideration the following areas:

1. An area likely to disrupt keeping road structures intact and ensuring smooth traffic;
2. An area expected to reduce expenses and maximize the benefits of tunnel construction by concurrently implementing projects, including road construction and maintenance, so as to prevent redundant excavation of roads;
3. An area with technical or geographical potential to construct utility tunnels;
4. Other areas necessary for constructing utility tunnels.

[This Article Newly Inserted by Ordinance No. 5650, Jan. 9, 2014]

Article 4 (Occupancy Permit, etc.)

(1) When a person who fails to bear expenses incurred in installing a utility tunnel intends to occupy or use the utility tunnel, he or she shall submit a written application for a permit to occupy (or use) a utility tunnel in attached Form 1 to the Mayor,

30 days prior to the scheduled date of occupancy or use. <Amended by Ordinance No. 4252, Jan. 5, 2005; Ordinance No. 5133, Jul. 28, 2011; Ordinance No. 5650, Jan. 9, 2014; Ordinance No. 7032, Mar. 28, 2019>

(2) When the Mayor receives an application referred to in paragraph (1), he or she shall decide whether to permit upon deliberation of the Seoul Metropolitan Government Utility Tunnel Council (hereinafter referred to as the "Council") under Article 39-2 of the Decree. <Amended by Ordinance No. 4252, Jan. 5, 2005; Ordinance No. 5133, Jul. 28, 2011; Ordinance No. 7032, Mar. 28, 2019>

[Moved from Previous Article 3; previous Article 4 moved to Article 5 <by Ordinance No. 5650, Jan. 9, 2014>]

Article 5 (Occupancy Fees and Usage Fees)

(1) A person who newly occupies or uses a utility tunnel after obtaining the permit under Article 4 shall pay an occupancy fee or usage fee. <Amended by Ordinance No. 7032, Mar. 28, 2019>

(2) The occupancy fee referred to in paragraph (1) shall be an amount corresponding to the ratio of the area to be occupied to the total area of the utility tunnel (hereinafter referred to as "ratio of the area to be occupied") applied to the total expenses incurred in the construction of the utility tunnel: Provided, That when a person who fails to make a full payment of his or her share of expenses incurred in installing the utility tunnel intends to occupy, the occupancy fee shall be the unpaid amount with 10/100 of the unpaid amount added. <Amended by Ordinance No. 7032, Mar. 28, 2019>

(3) Total expense incurred in installing the utility tunnel referred to in the main sentence of paragraph (2) shall be calculated by the following standards: <Amended by Ordinance No. 7032, Mar. 28, 2019>

1. Expenses incurred in installing a utility tunnel under Article 38 (1) of the Decree shall be calculated at the present value by applying annual Producer Price Index (Gross Index) published by the Bank of Korea and depreciation rate of facilities;

2. Where there is no information about the expenses incurred in installing a utility tunnel, the estimated present value of the similar construction type (including culvert road tunnel) shall be applied.

(4) The usage fee referred to in paragraph (1) shall be determined by dividing the occupancy fee calculated under paragraph (2) by the total years of service period (referring to 20 years where the period of occupancy or use is at least one year, and 10 years where the period is less than one year) and imposed every year: Provided, That the usage fee is calculated on a monthly basis for a period less than one year; and a period less than one month shall be deemed one month. <Amended by Ordinance No. 7032, Mar. 28, 2019>

(5) Where an area to be occupied is re-calculated due to new occupancy or use, the Mayor shall determine the area based on cross sectional areas of examples in the attached Table upon deliberation of the Council, and shall calculate the area to be occupied by subtracting an area for new occupancy or use from the existing occupancy area for an expropriating agency which provides available spaces. <Newly Inserted by Ordinance No. 7032, Mar. 28, 2019>

(6) 50/100 of occupancy or usage fee collected from a person who newly occupies or uses under paragraph (1) shall be paid to an expropriating agency which provides available spaces, and the remaining 50/100 shall be appropriated for maintenance of existing occupants of a utility tunnel. <Newly Inserted by Ordinance No. 7032, Mar. 28, 2019>

[Moved from Previous Article 4; previous Article 5 moved to Article 6 <by Ordinance No. 5650, Jan. 9, 2014>]

Article 6 (Management Expenses)

(1) An occupant of a utility tunnel (including a person who temporarily occupies a utility tunnel after paying usage fee) shall bear expenses incurred in managing the utility tunnel concerned. <Amended by Ordinance No. 7032, Mar. 28, 2019>

(2) The Mayor shall impose on and collect from a person who is responsible to pay management fees under paragraph (1), based on the ratio of the occupied area to the total area of the utility tunnel. <Amended by Ordinance No. 7032, Mar. 28, 2019>

[Moved from Previous Article 5; previous Article 6 moved to Article 7 <by Ordinance No. 5650, Jan. 9, 2014>]

Article 7 (Imposition and Collection)

(1) When the Mayor intends to collect occupancy fees, usage fees, maintenance fees, etc. of utility tunnels, he or she shall issue a notice for payment stating the person obliged to pay, the amount to be paid, the due date, the place of payment, etc.

(2) The due date for payment of an occupancy fee shall be the day before the commencement date of construction of facilities for occupancy to be built in a utility tunnel: Provided, That where the Mayor makes separate consultation with the person who pays occupancy fees or deems that the person has difficulty in paying the fee in a lump sum, the Mayor may allow him or her to pay it in installments over a period of not more than five years with the interest at a rate of 6/100 per annum. <Amended by Ordinance No. 4416, Jul. 19, 2006; Ordinance No. 5133, Jul. 28, 2011; Ordinance No. 6016, Oct. 8, 2015; Ordinance No. 7032, Mar. 28, 2019>

(3) The due date for payment of a usage fee pursuant to Article 5 shall be as follows: <Amended by Ordinance No. 5133, Jul. 28, 2011; Ordinance No. 6016, Oct. 8, 2015; Ordinance No. 6851, Mar. 22, 2018; Ordinance No. 7032, Mar. 28, 2019>

1. Where a service period is not less than one year: A usage fee shall be collected for each fiscal year, and a usage fee shall be paid by the day before the commencement date of construction of facilities using a utility tunnel for the first year and by the end of March of the year concerned from the subsequent year;

2. Where a service period is less than one year: A usage fee shall be paid by the day before the commencement date of construction of facilities using a utility tunnel.

(4) Maintenance fees under the provisions of Article 6 shall be collected in semi-annual installments, the due dates for payment of which shall be the end of May and the end of November each year. <Amended by Ordinance No. 5133, Jul. 28, 2011; Ordinance No. 6016, Oct. 8, 2015>

[Moved from Previous Article 6; previous Article 7 moved to Article 8 <by Ordinance No. 5650, Jan. 9, 2014>]

Article 8 (Filing Objections)

(1) Where a person on whom an occupancy fee, usage fee, and maintenance fee of a utility tunnel is imposed dissatisfies with the imposition and collection thereof, he or she may file an objection with the Mayor within 90 days from the date he or she receives a notice of such disposition. <Amended by Ordinance No. 7032, Mar. 28, 2019>

(2) Where a person files an objection under the provisions of paragraph (1), the Mayor shall render a decision on the objection and notify him or her of the decision within 60 days from the date of receipt of the objection filed. <Amended by Ordinance No. 5133, Jul. 28, 2011>

(3) Where a person who has filed an objection intends to institute administrative proceedings against the imposition and collection of an occupancy fee, usage fee, and maintenance fee of a utility tunnel, he or she shall file a lawsuit against the Mayor within 90 days from the date he or she receives a notice of decision under the provisions of paragraph (2). <Amended by Ordinance No. 5133, Jul. 28, 2011>

(4) Where a person who has filed an objection fails to receive a notice of decision within the decision-making period under the provisions of paragraph (2), notwithstanding paragraph (3), he or she may institute administrative proceedings within 90 days from the decision-making period expires. <Amended by Ordinance No. 5133, Jul. 28, 2011>

[Moved from Previous Article 7; previous Article 8 moved to Article 9 <by Ordinance No. 5650, Jan. 9, 2014>]

Article 9 (Application Mutatis Mutandis)

Except as otherwise provided in this Ordinance, occupancy fees, usage fees, and maintenance fees of a utility tunnel shall be collected in the same manner as local taxes are collected; and the Framework Act of Local Taxes shall apply mutatis mutandis to the methods of and procedures for filing objections. <Amended by Ordinance No. 4416, Jul. 19, 2006; Amended by Ordinance No. 7032, Mar. 28, 2019>

[Moved from Previous Article 9 <by Ordinance No. 5650, Jan. 9, 2014>]

ADDENDA

(1) (Enforcement Date) This Ordinance shall enter into force on the date of its promulgation.

(2) Omitted.

ADDENDA <Ordinance No. 4131, Jul. 25, 2003>

Article 1 (Enforcement Date)

This Ordinance shall enter into force on the date of its promulgation.

Articles 2 through 11 Omitted.

ADDENDUM <Ordinance No. 4252, Jan. 5, 2005>

This Ordinance shall enter into force on the date of its promulgation.

ADDENDA <Ordinance No. 4416, Jul. 19, 2006>

(1) (Enforcement Date) This Ordinance shall enter into force on the date of its promulgation.

(2) (Applicability) The amended provisions of the proviso of Article 6 (2) shall begin to apply from the fees imposed on or after the date this Ordinance enters into force.

ADDENDUM <Ordinance No. 5133, Jul. 28, 2014>

This Ordinance shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance No. 5650, Jan. 9, 2014>

This Ordinance shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance No. 6016, Oct. 8, 2015>

This Ordinance shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance No. 6851, Mar. 22, 2018>

This Ordinance shall enter into force on the date of its promulgation.

ADDENDA <Ordinance No. 7032, Mar. 28, 2019>

Article 1 (Enforcement Date)

This Ordinance shall enter into force on the date of its promulgation.

Articles 2 (Applicability)

- (1) The amended provisions of Articles 5 and 6 shall begin to apply from occupancy or use for which permission is applied after this Ordinance enters into force.
- (2) The amended provisions of Article 8 shall also apply to a person on whom the fees of occupancy, usage or maintenance are imposed before this Ordinance enters into force.