



SEATTLE CITY COUNCIL

Legislative Summary

CB 119652

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Title: AN ORDINANCE relating to citations and penalties in the Street and Sidewalk Use code; assessing citation penalties based on land use zoning and permit type; adding citation fee amounts to the Street Use Permit Fee Schedule; granting authority to annually adjust citation penalty fees; and amending Sections 15.91.016 and 15.91.030 and repealing Section 15.91.025 of the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att A - Seattle Department of Transportation Street Use Permit Fee Schedule

Drafter: Bill.LaBorde@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	09/10/2019	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	09/10/2019	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
1	Council President's Office	09/13/2019	sent for review	Sustainability and Transportation Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Sustainability and Transportation Committee						
1	City Council	09/16/2019	referred	Sustainability and Transportation Committee			

CITY OF SEATTLE

ORDINANCE 125945

COUNCIL BILL 119652

AN ORDINANCE relating to citations and penalties in the Street and Sidewalk Use code; assessing citation penalties based on land use zoning and permit type; adding citation fee amounts to the Street Use Permit Fee Schedule; granting authority to annually adjust citation penalty fees; and amending Sections 15.91.016 and 15.91.030 and repealing Section 15.91.025 of the Seattle Municipal Code.

WHEREAS, the Seattle Department of Transportation (SDOT) Street Use Division is charged with regulating the use of the public right-of-way under Seattle Municipal Code (SMC) Title 15, Street and Sidewalk Use code; and

WHEREAS, the primary purposes of regulating the right-of-way are to ensure mobility is maximized for the traveling public, protect the public's health and safety, ensure public infrastructure is installed or restored properly by private utilities and developments, and activate public spaces; and

WHEREAS, Street Use manages the right-of-way by reviewing and issuing permits, inspecting permitted work, and providing code enforcement for non-permitted or non-compliant uses of the right-of-way; and

WHEREAS, SMC Title 15 provides several options for code enforcement actions, including warnings, citations, notices of violation (NOV), stop work orders, emergency orders, and abatement; and

WHEREAS, SMC Chapter 15.91 authorizes SDOT to issue citations for violating specific portions of Title 15 and permit conditions, and citations fee amounts have not been holistically updated since they were first introduced in 2002; and

1 WHEREAS, Street Use inspectors follow SDOT's Swift and Certain enforcement process for
2 enforcing violations in the public right-of-way to quickly address safety, access, or
3 environmental problems and change the violator's behavior over time; and

4 WHEREAS, SDOT is proposing a new citation penalty structure be added to the Street Use
5 Permit Fee Schedule that will be based on the land use zone adjacent to the violation's
6 location to incentivize efficient and effective compliance with Title 15 and permit
7 conditions, and to promote mobility and safety through the right-of-way; and

8 WHEREAS, SDOT will adjust the citation penalty fee amounts annually based on the Consumer
9 Price Index as authorized by Ordinance 125185; NOW, THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. Section 15.91.016 of the Seattle Municipal Code, last amended by Ordinance
12 125492, is amended as follows:

13 **15.91.016 Penalties**

14 A. ~~(First violation~~

15 ~~1. No Street Use permit obtained. The first time a person or entity is found to have~~
16 ~~violated subsection 15.91.002.A.1, except Street Use vending permits identified in subsection~~
17 ~~15.91.016.A.4.a, by not obtaining a Street Use permit before using the public place, the person or~~
18 ~~entity shall be subject to a penalty of \$500.~~

19 2.) Citation penalty fee schedule

20 The Director of Transportation shall prepare and recommend for adoption by the City
21 Council a citation penalty fee schedule for violations of Title 15. Citation penalty fees shall
22 increase each time the same violator has been subsequently found to have committed a violation

1 within a one-year period, and will be based on the permit type issued and then the zoning
2 designation adjacent to the public place where the violation occurred, if applicable.

3 1. Violations of Title 15 or Street Use permit. The first time a person or entity is
4 found to have violated subsection((s)) 15.91.002.A(~~(.2 through 15.91.002.A.26, except Street~~
5 ~~Use vending permits identified in subsection 15.91.016.A.4.b;))~~) or violated a condition of their
6 Street Use permit(~~(;))~~), the person or entity shall be subject to a penalty (~~((of \$250))~~) established
7 by the citation penalty fee schedule.

8 ~~((3))~~ 2. Violation warning. The Director may, in an exercise of discretion, issue a
9 warning to the person or entity responsible for obtaining the Street Use permit if the person or
10 individual has not been previously warned or cited for violating subsection 15.91.002.A.

11 ~~((4. Street Use vending first violation.~~

12 ~~a. No Street Use vending permit. The first time a person or entity is found~~
13 ~~to have violated subsection 15.91.002.A.1 for not being in possession of a Street Use vending~~
14 ~~permit, identified as subsection 15.91.002.A.6, while using the public place; the person or entity~~
15 ~~shall be subject to a penalty of \$300.~~

16 ~~b. Insecure or unsafe vending unit. As provided for in Section 15.04.070,~~
17 ~~if the City determines that a permitted food vehicle, vending cart, vending trailer, or other~~
18 ~~vending-related device (collectively a “vending unit” for this Chapter 15.91) is insecure or~~
19 ~~unsafe, the vendor shall immediately cease using the public space and shall be subject to a~~
20 ~~penalty of \$300.~~

21 ~~c. Street Use vending permit condition violation. The first time the~~
22 ~~permittee is found to have violated subsection 15.91.002.A.6 by not adhering to the conditions of~~
23 ~~their Street Use vending permit, the permittee shall be subject to a penalty of \$150. The Director~~

1 may, in an exercise of discretion, issue a warning to the vendor if the person or entity has not
2 been previously warned or cited for violating subsection 15.91.002.A.6.

3 B. Second and subsequent violations

4 1. ~~No Street Use permit obtained. If, within a five year period after a first~~
5 ~~violation has been determined to exist, a person or entity is subsequently cited for violating~~
6 ~~subsection 15.91.002.A.1, except Street Use vending permits identified in subsection~~
7 ~~15.91.016.B.3.a, for not obtaining a Street Use permit, the person or entity shall be subject to a~~
8 ~~penalty of \$1,000 for that violation and each subsequent violation.~~

9 2. ~~Violations of Title 15 or Street Use permit.)~~ 3. If, within a ~~((five))~~ one-year
10 period after a person's or entity's first violation of ((subsections)) subsection 15.91.002.A((2
11 through 15.91.002.A.26)) or violation of a Street Use permit condition has been determined to
12 exist, a person or entity is subsequently cited for violating subsection((s)) 15.91.002.A((2
13 through 15.91.002.A.26, except Street Use vending permits identified in subsection
14 15.91.016.B.3.b,)) or subsequent violation of Street Use permit condition, the person or entity
15 shall be subject to ((a penalty of \$500 for that violation and each subsequent violation)) further
16 penalties established by the citation penalty fee schedule.

17 ~~((3. Street Use vending subsequent violations.~~

18 a. ~~No Street Use vending permit. The second time a person or entity is~~
19 ~~found to have violated subsection 15.91.002.A.1 by not being in possession of a Street Use~~
20 ~~vending permit, identified as subsection 15.91.002.A.6, while using the public place within one~~
21 ~~year after a first violation of subsection 15.91.002.A.1; the person or entity shall be subject to a~~
22 ~~penalty of \$600. The third time a person or entity is found to have violated subsection~~
23 ~~15.91.002.A.1 by not being in possession of a valid Street Use vending permit, identified as~~

1 subsection 15.91.002.A.6, while using the public place within one year after a first violation of
2 subsection 15.91.002.A.1; the person or entity shall be subject to a penalty of \$1,200 and the
3 vending unit shall be subject to abatement as provided for in subsection 15.91.025.

4 b)) B. Insecure and unsafe ((vending unit)) uses. As provided for in Section 15.04.070, if
5 ~~((the City determines that a permitted vending unit is insecure or unsafe a second time within one~~
6 ~~year after a first violation for insecure or unsafe conditions has been determined to exist, the~~
7 ~~vendor shall immediately cease using the public space and shall be subject to a penalty of \$600.~~
8 ~~If)) the City determines that a permitted ((vending unit)) site or use is insecure or unsafe~~
9 ~~following a third ((time)) upheld citation within one year after a first violation for insecure or~~
10 ~~unsafe conditions has been determined to exist; the Street Use permit ((shall)) may be~~
11 ~~immediately revoked, the permittee ((shall)) may be subject to ((a penalty of \$1,200)) additional~~
12 ~~penalties established by the citation penalty fee schedule, and the ((vending unit shall)) use may~~
13 ~~be subject to abatement as provided for in subsection ((15.91.025.A.1-e)) 15.91.030.~~

14 ((e)) C. Street Use ((vending)) permit condition violation. ~~((The second time a permittee~~
15 ~~is found to have violated subsection 15.91.002.A.6 by not adhering to the conditions of their~~
16 ~~Street Use vending permit within a one year period after a first violation of subsection~~
17 ~~15.91.002.A.6 has been determined to exist, the permittee shall be subject to a penalty of \$300.~~
18 ~~Each subsequent violation within the one year period shall be assessed double the amount of the~~
19 ~~previous penalty, but shall not to exceed \$1,200 in a one year period.)) A permittee's failure to~~
20 ~~comply with their Street Use ((vending)) permit conditions after three citations related to~~
21 ~~violating subsection 15.91.002.A((-6)) have been upheld by the Hearing Examiner in a one-year~~
22 ~~period ((shall)) may be grounds for permit revocation. ((If a Street Use vending permit is~~
23 ~~revoked, the vendor shall not be issued a Street Use vending permit for the revoked permit~~

1 location for one year from the date the permit was revoked or most recent violation upheld,
2 whichever is longer.

3 E)) D. Deposit of funds. Any funds received by the Hearing Examiner or collection
4 agency for violations associated with Section 15.91.002 shall be deposited into the
5 ~~((Transportation))~~ General Fund. ~~((Funds from violations of subsection 15.91.002.A.6 may be
6 used by other City departments for vending enforcement as authorized by the Director of
7 Transportation and shall be used by the Department of Transportation for the following
8 purposes: administering the vending program, including notifying property owners abutting a
9 proposed vending site designated by the Department of Transportation; verifying property
10 boundaries and square footage of usage; designating pre-approved vending sites by the
11 Department of Transportation; signing and demarcating designated vending sites and food-
12 vehicle zones; attending meetings or hearings; preparing documents, legislation, forms, and
13 notices; inspecting and enforcing permitted or illegal vending activity; or engaging in any other
14 vending-related activity as directed by the Director of Transportation.))~~

15 Section 2. Section 15.91.025 of the Seattle Municipal Code, enacted by Ordinance
16 123659, is repealed:

17 ~~((15.91.025 Vending unit abatement~~

18 A. Director's authority. The Director of the Department of Transportation, or delegee,
19 may order the immediate removal of any vending unit that is located in a public place and that
20 the Director determines is a threat to public health or safety.

21 1. The Director may also order the immediate removal of any vending unit located
22 in a public place if:

1 a. ~~The Director determines that a violation of Chapter 15.17 exists and the~~
2 ~~vendor has not taken immediate corrective action; or~~

3 b. ~~The vendor has previously received two upheld citations for violating~~
4 ~~Chapter 15.17 for not being in possession of a Street Use vending permit as provided for in~~
5 ~~subsection 15.91.002.A.1 within a one-year period from the date the Director determines a new~~
6 ~~violation exists for not being in possession of a valid Street Use vending permit; or~~

7 c. ~~The vendor has previously received two upheld citations for operating a~~
8 ~~vending unit that the City determines is insecure or unsafe as provided for in 15.04.070 within a~~
9 ~~one-year period from the date the Director determines that a new violation exists where the~~
10 ~~vending unit is insecure or unsafe; or~~

11 d. ~~A person or entity is found operating a vending unit after a Street Use~~
12 ~~vending permit has been revoked as provided for in subsection 15.91.016.B.3.a.~~

13 2. ~~An abatement warning may be issued to the person or entity that owns or~~
14 ~~operates the vending unit for the purpose of implementing subsection 15.91.025.A.1 if there is~~
15 ~~not an immediate threat to public health or safety. The warning may be mailed to the owner of~~
16 ~~the vending unit by first class mail if the Director can determine by reasonable investigation the~~
17 ~~owner's mailing address. A warning may alternatively be hand-delivered to the operator of the~~
18 ~~vending unit; or if the operator is not present, the warning may be posted in a conspicuous~~
19 ~~manner on the vending unit. The warning shall include:~~

20 a. ~~The Seattle Municipal Code provisions violated;~~

21 b. ~~The date and time of the violation;~~

22 c. ~~The location of the vending unit; and~~

1 ~~d. A statement giving 24 hours to remedy the violations and the potential~~
2 ~~for future abatement for subsequent violations;~~

3 ~~e. A statement that if the vending unit is removed for violating Chapter~~
4 ~~15.17, any food in the vending unit that may pose a health or safety risk if the food remains in~~
5 ~~the unit and the unit is removed from the public place, will be disposed of if the vendor fails to~~
6 ~~remove the food from the vending unit and the public place before the vending unit being~~
7 ~~removed by the City.~~

8 ~~B. Director's review following abatement. The owner of the vending unit may request a~~
9 ~~Director's review as provided for in subsection 15.04.112 if a vending unit has been subject to~~
10 ~~abatement.~~

11 ~~C. Payment for costs to remove or store. The owner of the vending unit shall pay to the~~
12 ~~City all costs associated with removing and storing the vending unit. The vending unit owner~~
13 ~~shall pay all unpaid penalties for violating Chapter 15.17 and all costs incurred by the City to~~
14 ~~remove or store the vending unit before the vending unit is released to the owner according to a~~
15 ~~Director's order to release the vending unit.~~

16 ~~D. Street Use permit denial following abatement. If a vending unit owner has had a~~
17 ~~vending unit abated, the vendor shall be denied a Street Use vending permit for one year from~~
18 ~~the date of abatement or the date of the most recently upheld violation, whichever is most~~
19 ~~recent.))~~

20 Section 3. Section 15.91.030 of the Seattle Municipal Code, last amended by Ordinance
21 123659, is amended as follows:

22 **15.91.030 Abatement**

1 Any public place on which there continues to be a violation of any of the provisions referenced
2 in Section 15.91.002 after enforcement action taken according to this Chapter 15.91 is declared a
3 nuisance and subject to abatement by the City in the manner authorized by law. (~~Violations of~~
4 ~~subsection 15.91.002.A.6 shall be subject to abatement according to Section 15.91.025.~~)

5 Section 4. The Seattle Department of Transportation (SDOT) Street Use Permit Fee
6 Schedule, Attachment A to Ordinance 125706, is amended by adding the Citation Penalty Fee
7 Schedule attached as Attachment A to this ordinance.

8 Section 5. The Director shall adjust citation penalty fees annually in Attachment A based
9 on changes in the purchasing power of the dollar during the preceding calendar year shown by
10 the Consumer Price Index for Urban Wage Earners and Clerical Workers for Seattle-Tacoma-
11 Bellevue, WA, First Six Months (CPI), published in or about August of each year by the U.S.
12 Department of Labor Bureau of Labor Statistics. This annual adjustment is consistent with the
13 annual CPI adjustments to be made on base and hourly fees in the SDOT Street Use Permit Fee
14 Schedule, which authority was granted by Ordinance 125185.

15 Section 6. No adjusted fee shall be effective unless it is included in a schedule of adjusted
16 fees the Director files with the City Clerk. The schedule shall state the year the fees shall first be
17 in effect. If the Director files the schedule with the City Clerk on or before December 1 of the
18 year before the stated year, the adjusted fees shall become effective on January 1 of the stated
19 year. Otherwise, the fees shall become effective on the first date that is a) at least 30 days after
20 the date of filing and b) is the first day of a calendar month.

21 Section 7. The failure of the Director to adjust the fees for any given year shall not limit
22 the Director's mandate and authority to adjust the fees in subsequent years, but in no case may
23 the Director adjust the fees upward by more than ten percent at any one time.

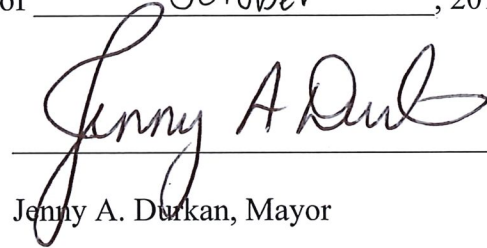
1 Section 8. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 23rd day of September, 2019,
5 and signed by me in open session in authentication of its passage this 23rd day of
6 September, 2019.

7 

8 President _____ of the City Council

9 Approved by me this 4th day of October, 2019.

10 
11 Jenny A. Durkan, Mayor

12 Filed by me this 4th day of OCTOBER, 2019.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)
16
17
18
19

20 Attachments:

21 Attachment A – Seattle Department of Transportation Street Use Permit Fee Schedule

Attachment A - Table E1

Citation Penalty Fee Schedule

	Citation penalty fee		
	First Violation	Second Violation	Third Violation
Lot zone adjacent to the public place or permit type	<i>Violator may be subject to subsequent violations within a one-year period</i>		
RSL, SF 5000, SF 7200, or SF 9600 ("Residential Zones"), Public Space Management Permits, or Maintenance Activities*	\$250	\$500	\$1,000
All other zones ("Non-Residential Zones") or Utility Construction Permits	\$1,000	\$2,000	\$4,000
Snow and ice removal** in RSL, SF 5000, SF 7200, or SF 9600 ("Residential Zones")	\$50	\$50	\$50
Snow and ice removal** in all other zones ("Non-Residential Zones")	\$250	\$500	\$1,000

*"Maintenance Activities" includes violations of Chapters 15.20 and 15.43 of the Seattle Municipal Code

**"Snow and ice removal" references Seattle Municipal Code Section 15.48.010
