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PRESCRIBING RULES AND PROCEDURES FOR THE DISPOSITION OF ITEMS CONFISCATED IN CONNECTION WITH THE SIDEWALK CLEARING OPERATION OF THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY

MMDA RESOLUTION NO. 02-40, s. 2002, September 25, 2002

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WHEREAS, MMDA Resolution No 02-28, series of 2002 authorizes the Metropolitan Manila Development Authority (MMDA) and the Local Government Units (LGUs) of Metro Manila to clear the sidewalks, streets, avenues, alleys, bridges, parks and other public places in Metro Manila of all illegal structures and obstructions;

WHEREAS, among the measures adopted by the MMDA to promote the safety and convenience of the public is the regulation of the use of sidewalks within Metro Manila through the disposition of items confiscated and the dismantling of structures and other obstructions found thereon in order to effect the smooth movement of pedestrian traffic;

WHEREAS, there is a need to dispose the accumulated items confiscated as a result of the Metro Manila Clearing Operations of the MMDA and the LGUs which were not immediately disposed of during the operations.

NOW THEREFORE, be it resolved as it is hereby resolved, pursuant to Section 6 of Republic Act 7924, that the Council hereby prescribes the following rules and procedures for the disposition of the duly confiscated items in accordance with MMDA Resolution No. 02-28, series of 2002.

SECTION 1. Any person caught committing any of the acts prohibited under MMDA Resolution No. 02-28, series of 2002, shall be fined for ONE HUNDRED FIFTY (P150.00) PESOS, in addition to confiscation/forfeiture of the items and the dismantling of illegal structures obstructing pedestrian movement.

Such prohibited acts include but not limited to the following:

- Vending or selling of foods, magazines, newspapers, cigarettes, brooms, watches or jewelries, shoes and other footwear, and/or any other items;

- Conduct of shoe-shine occupation;

- Conduct of "religious" activities, such as preaching and seeking alms;

- Doing house chores such as washing clothes, hanging clothes, and bathing;

- Vehicle garage and/or vehicle repair;

- Dumping garbage;

- Setting up of basketball court/goal;

- Use of sidewalk to install pens of animals or keep animals in chains;

- Storing softdrinks or wine/liquor bottles and cases; drinking liquor and beverages and holding

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picnics/gatherings;

- Storing of junks and recyclable materials;

- Use of sidewalk for storage of construction materials for sale (pipes, tubings, lumber, cement, and the like);

- House extension or stall/store extension including installation of roofs or awnings;

- Installation of permanent or picket fence;

- Use of sidewalks for plants, trees and plant boxes; and,

- Signs or signboards on or above sidewalks and detached from the business establishment.

Confiscated items, for the purpose of this provision, shall include non-perishable goods, commodities, merchandise, vending paraphernalia, equipment and facilities, pedicabs, pushcarts, steel railings and the like, among others.

SECTION 2. The fines shall be paid within seven (7) days from the date of apprehension. Provided, that if after 7 days, the fines has not been paid by the owner, the confiscated item shall be disposed of in a public sale, the proceeds of which shall be applied to the fine, costs incurred in conducting public auction including other administrative expenses, and the excess, if any, shall be returned to the owner.

SECTION 3. The MMDA Auction Committee shall administer the disposal of the confiscated items through public auction, as follows:

- To appraise the items to be disposed of which shall be considered as the floor price in the public auction;

- To fix the time, date and place of the public sale where all concerned and interested parties may participate in the auction, and to cause such notice of time and place to be published once a week for three (3) consecutive weeks in newspaper of general circulation and to be posted in at least three (3) accessible and conspicuous places; and,

- To conduct the regular actual public auction where at least two (2) bidders shall participate. In case only one (1) bidder participate, the same shall be considered failed bidding. Provided, that were failed bidding has occurred twice, the MMDA shall have the right to dispose of the items through negotiated sale at such price as may be determined by Auction Committee.

SECTION 4. The winning bidder shall have to make a deposit equivalent to 20% of the bidded amount, and shall have to pay the balance within three (3) days from the date of the sale. Bids not perfected after three (3) days shall be cancelled and the deposit shall be forfeited in favor of the MMDA.

SECTION 5. Items sold thereat shall be taken out from the storage by the winning bidder within seven (7) days from date of auction. Failure to take out such items within the prescribed period shall render the sale null and void. The payment made by the buyer shall then be forfeited in favor of the MMDA.

SECTION 6. All MMDA issuances contrary to or inconsistent with any provision of this Resolution are hereby repealed accordingly.

SECTION 7. Effectivity Clause. This resolution shall take effect fifteen (15) days after its publication in two (2) newspaper of general circulation in Metro Manila.

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Adopted: 25 Sept. 2002

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