

## Complete Text of Resolution

**ORDINANCE 122752** was passed by the City Council and ordered referred by petition.

Date passed: July 28, 2008

Vote: 6-1

AN ORDINANCE relating to the City of Seattle's solid waste system, establishing an advanced recovery fee (a green fee) for disposable shopping bags, providing a deduction for the green fee from the City's business license tax, creating two new positions, and amending Seattle Municipal Code Chapters 21.36, 21.40, and 5.45.

WHEREAS, the Washington State Legislature in RCW 70.95.010(8)(a) established waste reduction as the first priority for the collection, handling, and management of solid waste; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(4) found that it is "necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility"; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(6)(c) found that it is the responsibility of city governments "to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies"; and

WHEREAS, in 2007 the City Council adopted, the Mayor concurring, Resolution 30990, which reaffirmed the City's 60% recycling goal and set a longer-term goal of 70% recycling along with targets for waste reduction; and

WHEREAS, Resolution 30990 called for studies on how to reduce Seattleites' use of hard-to-recycle materials, many of them plastics, and specifically required Seattle Public Utilities ("SPU") to propose strategies, including bans, to discourage the use of disposable plastic shopping bags; and

WHEREAS, SPU has completed the first of those studies, finding that the production, use and recycling or disposal of both plastic and paper disposable shopping bags have significant adverse impacts on the environment; and

WHEREAS, costs associated with the use and disposal of disposable shopping bags in Seattle creates burdens on the City's solid waste disposal system; and

WHEREAS, to discourage and decrease the use of disposable shopping bags in the city, it is necessary to regulate such use; and

WHEREAS, it is in the best interest of the health, safety and welfare of the people that regulation include the imposition of a fee to discourage the use of disposable shopping bags, to reduce the cost of solid waste disposal by the city, to protect the environment, and to recover the costs of regulation; and

WHEREAS, Seattle has become a national leader among cities in green house gas reduction and seeks to further that effort through waste reduction and increased recycling; NOW, THEREFORE,

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

Section 1. Seattle Municipal Code Chapter 21.40 is amended by adding new Section 21.40.075 to read as follows:

**SMC 21.40.075 Advanced recovery fee (green fee) for disposable shopping bags**

A. Effective January 1, 2009, all grocery stores, drug stores, and convenience stores, each as defined in subsection J, shall charge and collect a twenty cents (\$0.20) advanced recovery fee, a Green Fee, for each disposable shopping bag provided to customers. It shall be a violation of this section for any store that is subject to the requirements of this section to pay or otherwise reimburse a customer for any portion of the Green Fee.

B. All grocery stores, drug stores, and convenience stores shall indicate on the customer transaction receipt the number of disposable shopping bags provided and the total amount of the Green Fee charged.

C. The Director of Seattle Public Utilities may establish by Administrative Rule, pursuant to Seattle Municipal Code Section 3.12.020, limitations on the application of the Green Fee for sales of non-grocery merchandise at warehouse clubs and supercenters.

D. On a quarterly basis and as otherwise may be required by the Director, all stores required to collect Green Fees under this section shall report and remit the City's portion of the Green Fees collected to the Director, as provided below, and may retain the remaining portion to offset administrative and other costs incurred in implementing the Green Fee required by this section.

1. Grocery stores, drug stores, and convenience stores with annual gross sales of less than one million dollars (\$1,000,000) may retain one hundred percent (100%) of the total amount collected.

2. Grocery stores, drug stores, and convenience stores with annual gross sales of one million dollars (\$1,000,000) or more shall remit seventy-five percent (75%) of the total amount collected to the City.

3. Payments and receipts shall be reported on forms prescribed by the Director. The form shall be signed by a responsible officer or agent of the store. The individual signing the form shall swear or affirm that the information in the form is true and complete.

E. City revenue generated from the Green Fee on disposable shopping bags shall be deposited in the Solid Waste Fund and used to support solid waste prevention and recycling programs.

F. The Director shall develop and maintain a database of all grocery stores, drug stores, and convenience stores required to collect the Green Fee and shall collect and deposit payments into the Solid Waste Fund.

G. If payment of any amounts due under this section are not received by the Director on or before the due date, the Director shall add a penalty calculated in the same manner as the penalty imposed under Seattle Municipal Code Section 5.55.110 A, as it now exists or as it may be amended. Nothing in this subsection shall be construed to deem any fees required under this chapter to be a tax.

H. If the Director determines that any amounts due under this section have been substantially underpaid, as defined in Seattle Municipal Code Section 5.55.110 B, there shall be added a penalty calculated in the same manner as the penalty imposed under Seattle Municipal Code Section 5.55.110 B, as it now exists or as it may be amended. Nothing in this subsection shall be construed to deem any fees required under this chapter to be a tax.

I. Any fee required by this section that is not paid within ninety (90) days after the due date shall be subject to interest and calculated in the same manner as the interest imposed under

Seattle Municipal Code Section 5.55.090 B, as it now exists or as it may be amended. Nothing in this subsection shall be construed to deem any fees required under this chapter to be a tax.

J. For purposes of this section, the following definitions apply.

1. "Advanced Recovery Fee" or "Green Fee" means a charge or regulatory fee levied against the distribution, purchase, or use of a product in order to discourage its use, thereby reducing its presence in the waste stream and its ancillary environmental impacts, and to recover costs associated with the recycling or disposal of the product.

2. "Convenience stores" means all retail stores falling under North American Industry Classification System (NAICS) code 445120 (convenience stores) or NAICS code 447110 (gasoline stations with convenience stores).

3. "Director" means the Director of Executive Administration or any officer, agent or employee of the City designated to act on the Director's behalf.

4. "Disposable shopping bag" means a bag of any material, commonly kraft paper or plastic film, designed for one-time use to carry customer purchases from a store. "Disposable shopping bag" does not include: bags used by customers inside stores to package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items, such as nails and bolts; bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, flowers or potted plants, or other items where dampness may be a problem; bags used to protect prepared foods or bakery goods; bags provided by pharmacists to contain prescription drugs; or newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

5. "Drug stores" means all retail stores falling under NAICS code 446110 (pharmacies and drug stores) or NAICS code 446191 (food and health supplement stores).

6. "Grocery stores" means all food stores falling under NAICS code 445110 (supermarkets and other grocery), or NAICS code 452910 (warehouse clubs and supercenters).

Section 2. The purpose of the Green Fee established by this ordinance is to regulate the generation of waste from disposable shopping bags by creating an economic incentive for customers to use reusable shopping bags. To further promote the use of reusable shopping bags and reduce the quantity of disposable shopping bags entering the City's waste stream, the Director of Seattle Public Utilities is authorized to make available to the public free-of-charge reusable shopping bags to the extent the director determines that such a program will significantly reduce the costs associated with the recycling and disposal of disposable shopping bags.

Section 3. Section 5.45.100 of the Seattle Municipal Code is amended as follows:

**5.45.100 Deductions.**

In computing the license fee or tax, the following may be deducted from the measure of tax:

\* \* \* \* \*

X. Amounts collected by grocery stores, drug stores, and convenience stores from customers to pay the Green Fee imposed under SMC 21.40.075, including that portion of the fee that the store is entitled to retain to offset costs incurred to implement and administer the Green Fee.

Section 4. Section 21.36.922 of the Seattle Municipal Code is amended as follows:

**SMC 21.36.922 Civil infractions.**

A. The violation of or failure to comply with any section of this subtitle (~~chapter~~) identified in this section is designated as a civil infraction and shall be processed as contemplated by RCW Chapter 7.80.

B. The violation of or failure to comply with any of the following sections shall be a civil infraction and subject as a Class 1 civil infraction under RCW 7.80.120 to a maximum monetary penalty and default amount of Two Hundred Fifty Dollars (\$250.00), not including statutory assessments:

SMC Section 21.36.420 (Unlawful dumping of solid waste)

SMC Section 21.40.075 (Advanced recovery fee (green fee) for disposable shopping bags)

\* \* \* \* \*

Section 5. To carry out the purposes of this ordinance, the following new positions are created in the Department of Executive Administration.

| Department                             | Position Title   | Position Status | Number of Positions |
|--|------------------|-----------------|---------------------|
| Department of Executive Administration | Admin Spec II-BU | Full Time       | 1                   |
| Department of Executive Administration | Tax Auditor      | Full Time       | 1                   |

Director is authorized to fill these positions subject to civil service and personnel rules and laws.

Section 6. To assist implementation of the green fee, SPU shall include the actions in Attachment A in its 2008 and 2009 work plans.

Section 7. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 8. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

## ATTACHMENT A

### GREEN FEE IMPLEMENTATION ACTIONS

The following actions shall be completed to assist implementation of the disposable shopping bag green fee. The deadlines for reporting action results to the Environment, Emergency Management, and Utilities Committee are shown in parentheses after each action. SPU shall:

A. Conduct an intensive public education and outreach campaign starting at least 90 days before the effective date of the green fee. SPU shall incorporate within that campaign, messages about the importance of keeping reusable bags clean and properly containing meat to prevent leakage (report on outreach strategy due by September 30, 2008).

B. Develop a proposal for minimizing impacts of the green fee on low-income customers and submit a written report to the Environment, Emergency Management, and Utilities Committee. The proposal should evaluate:

1. Making free bags available at the checkout stand during 2009 for low-income customers who do not have enough reusable bags to carry their purchases.
2. Options such as a City-issued punchcard available for 2009 that pre-pays the green fee for a certain number of shopping bags when low-income customers bring too few reusable bags.
3. Methods to minimize the cost to food banks if the projected reduction in use of disposable bags from groceries, convenience stores and drug stores reduces the number of disposable shopping bags donated to food banks.
4. Ways that SPU will work with low-income service providers including food banks, Seattle Housing Authority and other non-profit housing providers to distribute information and multiple reusable bags to low-income households (November 25, 2008).

C. Develop business record-keeping and reporting requirements that are as simple as possible to reduce the administrative burden on businesses (December 1, 2008).

D. Assess the additional cost to businesses of implementing the green fee and submit a written report (December 1, 2009).

E. Evaluate the potential benefits and costs of extending the green fee to all retail businesses and submit a written report (December 1, 2009).

F. Evaluate the effectiveness of measures taken to address impacts on low-income customers and submit a written report (December 1, 2009).