

Ordinance No. 122751

Council Bill No. 116250

AN ORDINANCE relating to the City of Seattle's solid waste system, prohibiting the use of expanded polystyrene food service containers, requiring food service businesses to transition from disposable plastic food service ware to compostable and recyclable alternatives, and amending Seattle Municipal Code Chapter 21.36.

CF No. \_\_\_\_\_

Date Introduced:	<u>6/23/08</u>	
Date 1st Referred:		To: Environment, Emergency Mgmt & Utilities (EEMU)
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	<u>7-28-08</u>	Full Council Vote: <u>7-0</u>
Date Presented to Mayor:	<u>7-29-08</u>	Date Approved: <u>7-30-08</u>
Date Returned to City Clerk:	<u>7-30-08</u>	Date Published: <u>6</u> T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: \_\_\_\_\_

*[Handwritten signatures]*  
Member  
*[Handwritten signature]*

## Committee Action:

(E)  
(D)  
Pass As Amended RC  
TB  
RM - absent

7-28-08 Passed 7-0 (Excused: Licata, McLev)

This file is complete and ready for presentation to Full Council. Committee: RC 7/22/08  
(initial/date)

*Law Department*

Law Dept. Review      OMP Review      City Clerk Review      Electronic Copy Loaded      Indexed



1 WHEREAS, to discourage and decrease the use of certain expanded polystyrene food service  
2 products and disposable food service ware in the city, it is necessary to regulate such use;  
and

3 WHEREAS, it is in the best interest of the health, safety and welfare of the people that  
4 regulations prohibit the use of certain expanded polystyrene food service products and  
5 disposable food service ware to reduce the cost of solid waste disposal by the City and to  
protect the environment; and

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

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

10 Section 1. Seattle Municipal Code Chapter 21.36 is amended by adding new Section  
11 21.36.084 to read as follows:

12 **SMC 21.36.084 Prohibition on use of expanded polystyrene food service products**

13 A. Effective January 1, 2009, food service businesses shall be prohibited from selling or  
14 providing food, for consumption on or off the premises, in expanded polystyrene food service  
15 products, except as otherwise provided under subsections B and C.

16 B. Prepackaged soups and other foods that food service businesses sell or otherwise  
17 provide to their customers in expanded polystyrene containers that have been filled and sealed  
18 prior to receipt by the food service businesses shall be exempt from the prohibition established in  
19 subsection A.

20 C. The prohibition on food service businesses selling or providing raw meat or raw  
21 seafood, for consumption on or off the premises, in expanded polystyrene food service products  
22 shall take effect on July 1, 2010.



1           D. For purposes of this section, the following definitions shall apply.

2                   1. “Expanded polystyrene” means blown polystyrene and expanded and extruded  
3 foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam  
4 insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and  
5 processed by any number of techniques including, but not limited to, fusion of polymer spheres  
6 (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding  
7 (extruded foam polystyrene).

8                   2. “Expanded polystyrene food service products” means food containers, plates,  
9 “clamshells,” hot and cold beverage cups, meat and vegetable trays, egg cartons, and other  
10 products, made of expanded polystyrene and used for selling or providing food for consumption  
11 on or off the premises.

12                   3. “Food service businesses” means full-service restaurants, fast food restaurants,  
13 cafés, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or institutional  
14 cafeterias, or other businesses, selling or providing food within the City of Seattle for  
15 consumption on or off the premises.

16           Section 2. Seattle Municipal Code Chapter 21.36 is amended by adding new Section  
17 21.36.086 to read as follows:

18                   **SMC 21.36.086 Compostable or recyclable food service ware required**

19                   A. Effective July 1, 2010, food service businesses shall be prohibited from selling or  
20 providing food, for consumption on or off the premises, in or with disposable plastic food service  
21



1 ware. Acceptable alternatives for prohibited disposable plastic food service ware shall be  
2 compostable or recyclable.

3 B. For purposes of this section, the following definitions shall apply.

4 1. "Compostable" means made solely of organic substances that break down into  
5 a stable product due to the action of bacteria in a controlled, aerobic commercial process that  
6 results in a material safe and desirable as a soil amendment meeting the compost quality  
7 standards found under WAC 173-350-220 for metals, physical parameters, pathogens,  
8 manufactured inert material and other testing parameters set by the local Health Department.

9 2. "Disposable plastic food service ware" means non-recyclable containers,  
10 plates, "clamshells," serving trays, meat and vegetable trays, hot and cold beverage cups, and  
11 utensils that are made of plastic or plastic-coated paper and intended only for one-time use  
12 (including so-called biodegradable products where any portion is not compostable).

13 3. "Food service businesses" means full-service restaurants, fast food restaurants,  
14 cafés, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or institutional  
15 cafeterias, and other businesses, selling or providing food within the City of Seattle for  
16 consumption on or off the premises.

17 4. "Recyclable" means made solely of materials that are capable of being  
18 separated from a waste stream by a food service business and made available for collection and  
19 delivery to a processor for reuse or remanufacture into the same or other products.



1 Section 3. Section 21.36.922 of the Seattle Municipal Code is amended as follows:

2 **SMC 21.36.922 Civil infractions.**

3 \* \* \* \* \*

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

8 SMC Section 21.36.420 (Unlawful dumping of solid waste)

9 SMC Section 21.36.084 (Prohibition on use of expanded polystyrene food service products)

10 SMC Section 21.36.086 (Compostable or recyclable food service ware required)

11 \* \* \* \* \*

12 Section 4. To assist implementation of the expanded polystyrene and plastic food service  
13 ware bans, SPU will involve a stakeholder group of food service business and environmental  
14 interest representatives to complete the following tasks and report to the City Council by  
15 December 31, 2009:

16 A. Develop a report on the availability, cost, and performance of recyclable and  
17 compostable alternatives to plastic food service ware.

18 B. Develop approaches for businesses to apply their collective buying power to increase  
19 the availability of competitively priced recyclable and compostable food service ware.

20 Section 5. The provisions of this ordinance are declared to be separate and severable. If  
21 a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having  
22



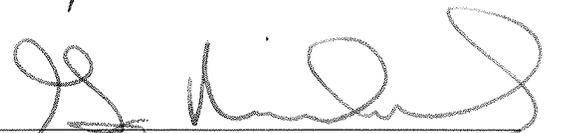
1 run, finds any provision of this ordinance to be invalid or unenforceable as to any person or  
2 circumstance, such offending provision shall, if feasible, be deemed to be modified to be within  
3 the limits of enforceability or validity. However, if the offending provision cannot be so  
4 modified, it shall be null and void with respect to the particular person or circumstance, and all  
5 other provisions of this ordinance in all other respects, and the offending provision with respect  
6 to all other persons and all other circumstances, shall remain valid and enforceable.  
7

8 Section 6. This ordinance shall take effect and be in force thirty (30) days from and after  
9 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
10 after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

11 Passed by the City Council the 28<sup>th</sup> day of July, 2008, and  
12 signed by me in open session in authentication of its passage this  
13 28<sup>th</sup> day of July, 2008.

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18 President \_\_\_\_\_ of the City Council

19 Approved by me this 30<sup>th</sup> day of July, 2008.

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21   
22 Gregory J. Nickels, Mayor

23  
24 Filed by me this 30<sup>th</sup> day of July, 2008.  
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Dick Lilly/DL/mm  
SPU Polystyrene Ban and Plastic Food Service Ware ORD  
July 16, 2008  
Version #16

  
\_\_\_\_\_  
City Clerk

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**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Seattle Public Utilities	Dick Lilly – 615.0706	John McCoy – 615.0768

**Legislation Title:**

AN ORDINANCE relating to the City of Seattle’s solid waste system, prohibiting the use of expanded polystyrene food service containers, requiring food service businesses to transition from disposable plastic food service ware to compostable and recyclable alternatives, and amending Seattle Municipal Code Chapter 21.36.

• **Summary of the Legislation:**

This legislation prohibits food service businesses, restaurants of all types, and grocery stores, from using expanded polystyrene (EPS) foam containers, plates, cups, meat trays, egg cartons and so forth, effective Jan. 1, 2009. The legislation further requires food service businesses to stop using disposable plastic or plastic-coated paper food service products – trays, plates, “clamshells,” cups, utensils and so forth – and change to reusable, compostable or recyclable alternatives by July 1, 2010.

• **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

The attached legislation arose from Resolution 30990 which instructed SPU to study the environmental impact of EPS, sometimes referred to by the trade name Styrofoam™, and consider a ban on its use because of its presence in land and marine litter, and persistence in the environment. SPU hired Herrera Environmental Consultants to study EPS and, in addition, the general problem of disposable plastic containers, plates, cups and the like in the food service business. The Mayor and Council President decided, given the information available, that the proper course of action was to issue a ban on the use of EPS food service products effective Jan. 1, 2009, followed by a requirement that food services businesses change entirely from disposable plastic and plastic-coated paper food service products to reusable, compostable, or recyclable products by July 1, 2010. Importantly, this policy reinforces the City’s programs for reaching its 60 percent recycling goal by increasing the emphasis on food composting.

• *Please check one of the following:*

**This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

**This legislation has financial implications.** *(Please complete all relevant sections that follow.)*



**Appropriations:** *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
<b>TOTAL</b>				

\*See budget book to obtain the appropriate Budget Control Level for your department.

**Notes:** SPU may seek additional appropriation in the 2009-2010 cycle for outreach, communication and enforcement of this ban.

**Anticipated Revenue/Reimbursement: Resulting From This Legislation:** *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
<b>TOTAL</b>				

**Notes:**

**Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact:** *This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.*

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2008 Positions	2008 FTE	2009 Positions*	2009 FTE*
<b>TOTAL</b>							

\* 2009 positions and FTE are total 2009 position changes resulting from this legislation, not incremental changes. Therefore, under 2009, please be sure to include any continuing positions from 2008.

**Notes:**

SPU may request additional inspection staff in the 2009-2010 budget cycle to conduct field visits to food service businesses affected by the ban on expanded polystyrene food service ware, to ensure compliance, and to provide technical assistance.

- **Do positions sunset in the future?** (If yes, identify sunset date):



**Spending/Cash Flow:** *This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.*

Fund Name & #	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
<b>TOTAL</b>				

\* See budget book to obtain the appropriate Budget Control Level for your department.

**Notes:**

- **What is the financial cost of not implementing the legislation?** *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)*

The City would continue to face disposal costs for the various plastic and plastic-coated paper food service products, and incur avoidable costs where food waste is landfilled rather than composted. Compostable food service products used in fast food settings increase food waste composting as they allow food waste and containers to be handled together, rather than thrown in the garbage. The current annual cost to the City of collection, recycling, disposal and litter cleanup for the disposable food service items distributed in the city each year is about \$620,000. Implementing the legislation may increase the City's costs in the short run for administration and inspection related to the proposed ban. However, these costs will likely be offset by savings from increased composting of food waste rather than landfilling. These costs and savings are not currently quantified.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

A voluntary approach could be applied, but this would not achieve the same level of compliance and would likely fall short of the goal of eliminating disposable plastic and plastic-coated paper food service products from the waste stream.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

No.



- **Other Issues** *(including long-term implications of the legislation):*

During the transition to compostable and recyclable food service products, the City will need to provide technical assistance to smaller, minority, and immigrant-owned food service businesses, possibly helping to establish buying cooperatives so that these businesses can obtain volume pricing on compostable food service products. In the current market, these can cost 5 to 10 cents more than existing EPS products.

The City will also need to work with Cedar Grove Composting and other stakeholders to establish standards for compostability and develop clear identification for approved compostable products through logos and/or color coding so the public cannot mistake such products for others that do not meet the established standard.

**Please list attachments to the fiscal note below:**

None.





# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

June 17, 2008

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that would ban the use of expanded polystyrene (EPS) products in the city's restaurants beginning January 1, 2009. The Bill would also require food service businesses to switch to more environmentally friendly compostable and recyclable materials by July 1, 2010. By banning EPS (sometimes referred to by the trade name Styrofoam), Seattle would continue its environmental leadership and eliminate throwaway plastic items from the waste stream, reducing both land and marine litter. The requirement that restaurants then switch to compostable or recyclable products, which are a growing part of the food service market, would also discourage the use of other disposable plastic and plastic-coated paper products that are common today.

This legislation arose from recommendations in the study of EPS food containers and disposable shopping bags called for by Resolution 30990 last July. In that study, Herrera Environmental Consultants found that along with EPS, the disposable plastic and plastic-coated paper products used in the food service industry have significant environmental impacts. Those impacts could be reduced by replacing these plastic products with more environmentally friendly compostable and recyclable alternatives. It is encouraging that compostable versions of all kinds of food service items – from “clamshells” and plates, to cups and utensils – are already appearing in the market. During the two-year transition to these new products, Seattle Public Utilities (SPU) will provide technical assistance to restaurants, helping them buy the products at the lowest possible cost. SPU will also assist restaurants in maximizing their recycling and composting of food waste.

Passage of this legislation will contribute toward elimination of wasteful and environmentally harmful disposable plastics in the food service industry, and reduce solid waste disposal costs at the same time. Thank you for your consideration of this legislation. If you have questions, please contact Dick Lilly at 605-0706.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Nickels', written over a large, loopy scribble that extends across the signature area.

GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.





1 WHEREAS, to discourage and decrease the use of certain expanded polystyrene food service  
2 products and disposable food service ware in the city, it is necessary to regulate such use;  
and

3 WHEREAS, it is in the best interest of the health, safety and welfare of the people that  
4 regulations prohibit the use of certain expanded polystyrene food service products and  
5 disposable food service ware to reduce the cost of solid waste disposal by the City and to  
protect the environment; and

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

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

10 Section 1. Seattle Municipal Code Chapter 21.36 is amended by adding new Section  
11 21.36.084 to read as follows:

12 **SMC 21.36.084 Prohibition on use of expanded polystyrene food service products**

13 A. Effective January 1, 2009, food service businesses shall be prohibited from selling or  
14 providing food, for consumption on or off the premises, in expanded polystyrene food service  
15 products, except as otherwise provided under subsection B.

16 B. Prepackaged soups and other foods that food service businesses sell or otherwise  
17 provide to their customers in expanded polystyrene containers that have been filled and sealed  
18 prior to receipt by the food service businesses shall be exempt from the prohibition established in  
19 subsection A.

20 C. For purposes of this section, the following definitions shall apply.

21 1. "Expanded polystyrene" means blown polystyrene and expanded and extruded  
22 foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam  
23 and expanded polystyrene).



1 insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and  
2 processed by any number of techniques including, but not limited to, fusion of polymer spheres  
3 (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding  
4 (extruded foam polystyrene).

5           2. “Expanded polystyrene food service products” means food containers, plates,  
6 “clamshells,” hot and cold beverage cups, meat and vegetable trays, egg cartons, and other  
7 products, made of expanded polystyrene and used for selling or providing food for consumption  
8 on or off the premises.

9           3. “Food service businesses” means full-service restaurants, fast food restaurants,  
10 cafés, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or institutional  
11 cafeterias, or other businesses, selling or providing food within the City of Seattle for  
12 consumption on or off the premises.

13           Section 2. Seattle Municipal Code Chapter 21.36 is amended by adding new Section  
14 21.36.086 to read as follows:

15           **SMC 21.36.086 Compostable or recyclable food service ware required**

16           A. Effective July 1, 2010, food service businesses shall be prohibited from selling or  
17 providing food, for consumption on or off the premises, in or with disposable plastic food service  
18 ware. Acceptable alternatives for prohibited disposable plastic food service ware shall be  
19 compostable or recyclable.

20           B. For purposes of this section, the following definitions shall apply.

1                   1. "Compostable" means made solely of organic substances that break down into  
2 a stable product due to the action of bacteria in a controlled, aerobic commercial process that  
3 results in a material safe and desirable as a soil amendment meeting the compost quality  
4 standards found under WAC 173-350-220 for metals, physical parameters, pathogens,  
5 manufactured inert material and other testing parameters set by the local Health Department.

6                   2. "Disposable plastic food service ware" means non-recyclable containers,  
7 plates, "clamshells," serving trays, meat and vegetable trays, hot and cold beverage cups, and  
8 utensils that are made of plastic or plastic-coated paper and intended only for one-time use  
9 (including so-called biodegradable products where any portion is not compostable).

10                   3. "Food service businesses" means full-service restaurants, fast food restaurants,  
11 cafés, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or institutional  
12 cafeterias, and other businesses, selling or providing food within the City of Seattle for  
13 consumption on or off the premises.

14                   4. "Recyclable" means made solely of materials that are capable of being  
15 separated from a waste stream by a food service business and made available for collection and  
16 delivery to a processor for reuse or remanufacture into the same or other products.

17                   Section 3. Section 21.36.922 of the Seattle Municipal Code is amended as follows:

18                   **SMC 21.36.922 Civil infractions.**

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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 21.36.084 (Prohibition on use of expanded polystyrene food service products)
- SMC Section 21.36.086 (Compostable or recyclable food service ware required)

\* \* \* \* \*

Section 4. 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



1 other provisions of this ordinance in all other respects, and the offending provision with respect  
2 to all other persons and all other circumstances, shall remain valid and enforceable.

3 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after  
4 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
5 after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.  
6

7 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2008, and  
8 signed by me in open session in authentication of its passage this  
9 \_\_\_\_ day of \_\_\_\_\_, 2008.

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12 \_\_\_\_\_  
13 President \_\_\_\_\_ of the City Council

14 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2008.

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17 \_\_\_\_\_  
18 Gregory J. Nickels, Mayor

19 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2008.

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22 \_\_\_\_\_  
23 City Clerk

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27 (Seal)



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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227509  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

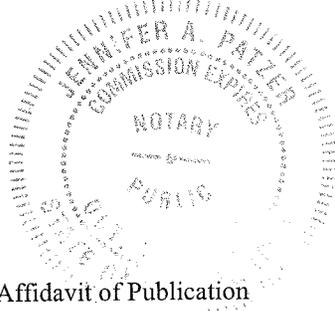
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122751 ORDINANCE

was published on

08/05/08

The amount of the fee charged for the foregoing publication is the sum of \$ 337.20, which amount has been paid in full.



*[Signature]*  
\_\_\_\_\_  
Subscribed and sworn to before me on  
08/05/08 *[Signature]*  
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

# City of Seattle

## ORDINANCE 122751

AN ORDINANCE relating to the City of Seattle's solid waste system, prohibiting the use of expanded polystyrene food service containers, requiring food service businesses to transition from disposable plastic food service ware to compostable and recyclable alternatives, and amending Seattle Municipal Code Chapter 21.36.

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 food service containers and food service ware; and

WHEREAS, SPU has completed the first of those studies, finding that the production, use and disposal of expanded polystyrene food service products and disposable food service ware have significant adverse impacts on the environment and that compostable or recyclable alternative products are available; and

WHEREAS, costs associated with the use and disposal of expanded polystyrene food service products and disposable food service ware in Seattle creates burdens on the City's solid waste disposal system; and

WHEREAS, to discourage and decrease the use of certain expanded polystyrene food service products and disposable food service ware 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 regulations prohibit the use of certain expanded polystyrene food service products and disposable food service ware to reduce the cost of solid waste disposal by the City and to protect the environment; 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 21.36 is amended by adding new Section 21.36.084 to read as follows:

**SMC 21.36.084 Prohibition on use of expanded polystyrene food service products**

A. Effective January 1, 2009, food service businesses shall be prohibited from selling or providing food, for consumption on or off the premises, in expanded polystyrene food service products, except as otherwise provided under subsections B and C.

B. Prepackaged soups and other foods that food service businesses sell or otherwise provide to their customers in expanded polystyrene containers that have been filled and sealed prior to receipt by the food service businesses shall be exempt from the prohibition established in subsection A.

C. The prohibition on food service businesses selling or providing raw meat or raw seafood, for consumption on or off the premises, in expanded polystyrene food service products shall take effect on July 1, 2010.

D. For purposes of this section, the following definitions shall apply.

1. "Expanded polystyrene" means blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres, expandable bead polystyrene, injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

2. "Expanded polystyrene food service products" means food containers, plates, "clamshells," hot and cold beverage cups, meat and vegetable trays, egg cartons, and other products, made of expanded polystyrene and used for selling or providing food for consumption on or off the premises.

3. "Food service businesses" means full-service restaurants, fast food restaurants, cafés, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or institutional cafeterias, and other businesses, selling or providing food within the City of Seattle for consumption on or off the premises.

Section 2. Seattle Municipal Code Chapter 21.36 is amended by adding new Section 21.36.086 to read as follows:

**SMC 21.36.086 Compostable or recyclable food service ware required**

A. Effective July 1, 2010, food service businesses shall be prohibited from selling or providing food, for consumption on or off the premises, in or with disposable plastic food service ware. Acceptable alternatives for prohibited disposable plastic food service ware shall be compostable or recyclable.

B. For purposes of this section, the following definitions shall apply.

1. "Compostable" means made solely of organic substances that break down into a stable product due to the action of bacteria in a controlled, aerobic commercial process that results in a material safe and desirable as a soil amendment meeting the compost quality standards found under WAC 173-350-220 for metals, physical parameters, pathogens, manufactured inert material and other testing parameters set by the local Health Department.

2. "Disposable plastic food service ware" means non-recyclable containers, plates, "clamshells," serving trays, meat and vegetable trays, hot and cold beverage cups, and utensils that are made of plastic or plastic-coated paper and intended only for one-time use (including so-called biodegradable products where any portion is not compostable).

3. "Food service businesses" means full-service restaurants, fast food restaurants, cafés, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or institutional cafeterias, and other businesses, selling or providing food within the City of Seattle for consumption on or off the premises.

4. "Recyclable" means made solely of materials that are capable of being separated from a waste stream by a food service business and made available for collection and delivery to a processor for reuse or manufacture into the same or other products.

Section 3. Section 21.36.922 of the Seattle Municipal Code is amended as follows:

**SMC 21.36.922 Civil infractions.**

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B. The violation of or failure to comply with any of the following sections shall be a civil infraction under 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 21.36.084 (Prohibition on use of expanded polystyrene food service products)

SMC Section 21.36.086 (Compostable or recyclable food service ware required)

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Section 4. To assist implementation of the expanded polystyrene and plastic food service ware bans, SPU will involve a stakeholder group of food service business and environmental interest representatives to complete the following tasks and report to the City Council by December 31, 2009:

A. Develop a report on the availability, cost, and performance of recyclable and compostable alternatives to plastic food service ware.

B. Develop approaches for businesses to apply their collective buying power to increase the availability of competitively priced recyclable and compostable food service ware.

Section 5. 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 6. 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.

Passed by the City Council the 28th day of July, 2008, and signed by me in open session in authentication of its passage this 28th day of July, 2008.

Richard Conlin

President of the City Council

Approved by me this 30th day of July, 2008.

Gregory J. Nickels, Mayor

Filed by me this 30th day of July, 2008.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, August 5, 2008.

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