

Ordinance No. 123307

Council Bill No. 114853

AN ORDINANCE relating to the City of Seattle's solid waste system, providing for the collection of compostable and recyclable food service ware from certain food service businesses, and amending Section 21.36.086 of the Seattle Municipal Code.

Related Legislation File: _____

Date Introduced and Referred: <u>May 3, 2010</u>	To: (committee): <u>Utility and Neighborhoods</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>5.17.10</u>	Date Presented to Mayor: <u>5.18.10</u>
Date Signed by Mayor: <u>May 20, 2010</u>	Date Returned to City Clerk: <u>May 24, 2010</u>
Published by Title Only _____	Date Vetoed by Mayor:
Published in Full Text <input checked="" type="checkbox"/>	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: _____

Committee Action:

Date	Recommendation	Vote
<u>5/11/10</u>	<u>PASS, as amended</u> ⁽ⁱⁿ⁾	<u>MOB, BH (2-0)</u>

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
<u>5.18.10</u>	<u>Passed</u>	<u>7-0 Excused: Conlin, Burgess</u>

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 21.36.086 of the Seattle Municipal Code is amended as follows:

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. Food service businesses providing food for consumption on premises using compostable or recyclable food service ware must provide conveniently located and clearly marked containers where customers may discard compostable and recyclable food service ware and must provide for the collection and delivery of these materials to appropriate processing facilities.

C. On such commercially reasonable terms as determined by the landlord, landlords of food service businesses subject to the requirements of this section shall make adequate space and/or services available to such food service businesses for the collection and pick up of the compostable and recyclable materials generated by such food service businesses.

D. Landlords operating food courts or similar settings that include food service businesses and common areas set aside and maintained for the consumption of food and beverages shall provide in such common areas the services required in subsection B of this section.

E. The Director is authorized to promulgate rules, in accordance with the provisions of the Administrative Code, SMC Chapter 3.02, for purposes of interpreting and clarifying the



1 requirements of this section. Such rules may provide temporary waivers or other relief that apply
2 to use of certain food service ware products for an initial period of up to one year from July 1,
3 2010, with the option for an up to one year extension to expire no later than June 30, 2012. Such
4 waivers or relief shall be granted only for circumstances where commonly used recycling and
5 composting technology cannot process the food service ware, or where suitable alternative
6 products that meet performance and food health and safety standards are unavailable.

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8 F ((B)). For purposes of this section, the following definitions shall apply.

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

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

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

5. "Consumed on premises" means consumption of food or beverages in the public areas of a food service business, common areas of a food court, outside seating areas and parking lots exclusively for customers of the food service business, rather than taken out for consumption elsewhere.

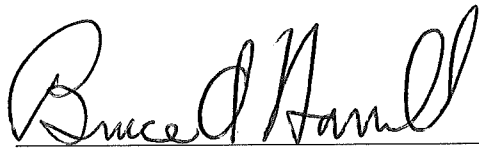


1 6. "Food court" means an area of a retail mall, office building, sports facility or other
2 premises where one or more food service businesses are located and customer seating for dining
3 and consumption of beverages is provided in a common area.

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

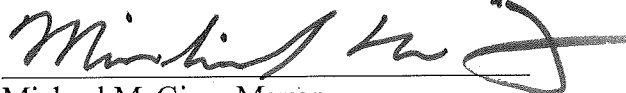
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9 Passed by the City Council the 17th day of May, 2010, and
10 signed by me in open session in authentication of its passage this

11 17th day of May, 2010.

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14 President pro tem of the City Council

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16 Approved by me this 20th day of May, 2010.

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19 Michael McGinn, Mayor

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21 Filed by me this 24th day of May, 2010.

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24 City Clerk

25 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Dick Lilly/615-0706	Cameron Keyes/4-8048

Legislation Title:

AN ORDINANCE relating to the City of Seattle's solid waste system, providing for the collection of compostable and recyclable food service ware from certain food service businesses, and amending Section 21.36.086 of the Seattle Municipal Code.

• **Summary of the Legislation:**

The legislation clarifies the requirements and responsibilities of food service businesses and landlords of food service businesses and food courts regarding: a) providing appropriate bins (including adequate space to house such bins) for disposing of compostable and recyclable products; and b) collecting and processing these materials. This legislation also authorizes the Director of Seattle Public Utilities (SPU) to delay implementing requirements of Ordinance 122751 regarding use of compostable or recyclable, one-time-use food service ware if he determines comparable alternative products are not available. The ordinance also clarifies the definition of "Disposable food service ware," removing the words "plastic" and "plastic-coated paper" since these materials may be recyclable.

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

In July 2008, the City Council passed Ordinance 122751 which requires food service businesses in the city to replace one-time-use disposable food service ware with compostable or recyclable alternatives by July 1, 2010. The ordinance did not specify that food service businesses provide for disposal of the new compostable and/or recyclable food service ware in locations where patrons finish their food and beverages on site. Accordingly, the proposed legislation requires that food service providers place bins for compostable and recyclable food service ware on premises and provide for the collection and appropriate processing of these materials.

In the process of implementing Ordinance 122751, SPU discovered a number of food service businesses lease space from landlords who provide garbage service but not collection of compostable and recyclable materials. To fill this gap, the proposed legislation requires landlords to accommodate the needs of food service businesses to have compostable and recyclable materials separately collected for appropriate processing.

SPU also discovered some compostable one-time-use food service ware products do not meet the performance standards of the non-compostable products they are supposed to replace. For example, compostable cutlery can lose structural integrity and sag when left in hot foods such as soup. This ordinance gives the SPU Director authority, based on reasonable performance observations, to delay the requirement for the use of compostable or recyclable one-time-use food service ware for products not meeting industry performance



standards.

When fully implemented, Ordinance 122751 will divert 6,000 tons per year of compostable and recyclable material away from the landfill. This is approximately 1.4 percent of the 438,000 tons landfilled in 2006 and set by Resolution 30990, the "Zero Waste" resolution, as the maximum allowed waste disposal from which the City must trim at least 1 percent per year through 2012.

- *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.)*

THE NATIONAL ARCHIVES

THIS VERSION IS NOT ADOPTED

ORDINANCE _____

AN ORDINANCE relating to the City of Seattle's solid waste system, providing for the collection of compostable and recyclable food service ware from certain food service businesses, and amending Section 21.36.086 of the Seattle Municipal Code.

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(6)(c) found 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, the City Council in 2007 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 and landfilling of disposable food service containers and food service ware; and

WHEREAS, SPU has completed 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 one-time-use 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 disposable food service ware in the city, the City enacted Ordinance 122751, amending Chapter 21.36 of the Seattle Municipal Code, to prohibit food service businesses from selling or providing food in or with one-time-use disposable food service ware; and

WHEREAS, to divert from landfill and further promote the efficient collection and processing of compostable and recyclable food service ware, the City intends to adopt requirements for such collection and processing; NOW, THEREFORE,



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

2 Section 1. Section 21.36.086 of the Seattle Municipal Code is amended as follows:

3 **21.36.086 Compostable or recyclable food service ware required**

4 A. Effective July 1, 2010, food service businesses shall be prohibited from selling or
5 providing food, for consumption on or off the premises, in or with disposable ((plastic)) food
6 service ware. Acceptable alternatives for prohibited disposable ((plastic)) food service ware
7 shall be compostable or recyclable.
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9 B. Food service businesses providing food for consumption on premises using
10 compostable or recyclable food service ware must provide conveniently located and clearly
11 marked containers where customers may discard compostable and recyclable food service ware
12 and must provide for the collection and delivery of these materials to appropriate processing
13 facilities.

14 C. On such commercially reasonable terms as determined by the landlord, landlords of
15 food service businesses subject to the requirements of this section shall make adequate space
16 and/or services available to such food service businesses for the collection and pick up of the
17 compostable and recyclable materials generated by such food service businesses.

18 D. Landlords operating food courts or similar settings that include food service
19 businesses and common areas set aside and maintained for the consumption of food and
20 beverages shall provide in such common areas the services required in subsection B of this
21 section.

22 E. The Director is authorized to promulgate rules, in accordance with the provisions of
23 the Administrative Code, SMC Chapter 3.02, for purposes of interpreting and clarifying the
24



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1 requirements of this section. Such rules may provide temporary waivers or other relief that apply
2 to use of certain food service ware products for an initial period of up to one year from July 1,
3 2010, with the option for an up to one year extension to expire no later than June 30, 2012. Such
4 waivers or relief shall be granted only for circumstances where commonly used recycling and
5 composting technology cannot process the food service ware, or where suitable alternative
6 products that meet performance and food health and safety standards are unavailable.

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8 E ((B)). For purposes of this section, the following definitions shall apply.

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

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

19 3. "Food service businesses" means full-service restaurants, fast food restaurants,
20 cafés, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or
21 institutional cafeterias, and other businesses, selling or providing food within the City of Seattle
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5. "Consumed on premises" means consumption of food or beverages in the public areas of a food service business, common areas of a food court, outside seating areas and parking lots exclusively for customers of the food service business, rather than taken out for consumption elsewhere.



STATE OF WASHINGTON – KING COUNTY

--SS.

255371
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 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

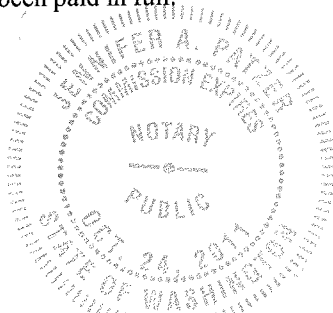
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123307 ORDINANCE

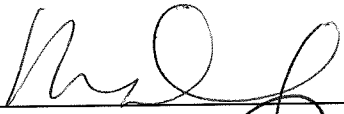
was published on

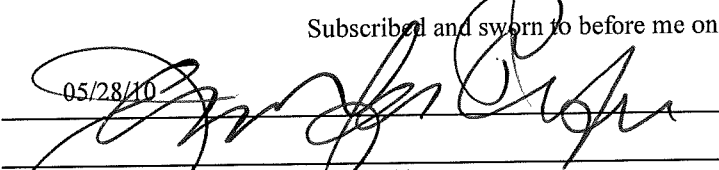
05/28/10

The amount of the fee charged for the foregoing publication is the sum of \$ 259.35, which amount has been paid in full.



Affidavit of Publication



Subscribed and sworn to before me on
05/28/10 

Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 123307

AN ORDINANCE relating to the City of Seattle's solid waste system, providing for the collection of compostable and recyclable food service ware from certain food service businesses, and amending Section 21.36.086 of the Seattle Municipal Code.

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WHEREAS, the City Council in 2007 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

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WHEREAS, SPU has completed 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 one-time-use 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 disposable food service ware in the city, the City enacted Ordinance 122751, amending Chapter 21.36 of the Seattle Municipal Code, to prohibit food service businesses from selling or providing food in or with one-time-use disposable food service ware; and

WHEREAS, to divert from landfill and further promote the efficient collection and processing of compostable and recyclable food service ware, the City intends to adopt requirements for such collection and processing; NOW, THEREFORE,

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Section 1. Section 21.36.086 of the Seattle Municipal Code is amended as follows:

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. Food service businesses providing food for consumption on premises using compostable or recyclable food service ware must provide conveniently located and clearly marked containers where customers may discard compostable and recyclable food service ware and must provide for the collection and delivery of these materials to appropriate processing facilities.

C. On such commercially reasonable terms as determined by the landlord, landlords of food service businesses subject to the requirements of this section shall make adequate space and/or services available to such food service businesses for the collection and pick up of the compostable and recyclable materials generated by such food service businesses.

D. Landlords operating food courts or similar settings that include food service businesses and common areas set aside and maintained for the consumption of food and beverages shall provide in such common areas the services required in subsection B of this section.

E. The Director is authorized to promulgate rules, in accordance with the provisions of the Administrative Code, SMC Chapter 3.02, for purposes of interpreting and clarifying the requirements of this section. Such rules may provide temporary waivers or other relief that apply to use of certain food service ware products for an initial period of up to one year from July 1, 2010, with the option for an up to one year extension to expire no later than June 30, 2012. Such waivers or relief shall be granted only for circumstances where commonly used recycling and composting technology cannot process the food service ware, or where suitable alternative products that meet performance and food health and safety standards are unavailable.

F ((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 and has been found to degrade satisfactorily at the composting facility receiving the material.

2. "Disposable ((plastic)) food service ware" means non-compostable and non-recyclable containers, plates, "clamshells," serving trays, meat and vegetable trays, hot and cold beverage cups, wrappers, 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 remanufacture into the same or other products.

5. "Consumed on premises" means consumption of food or beverages in the public areas of a food service business, common areas of a food court, outside seating areas and parking lots exclusively for customers of the food service business, rather than taken out for consumption elsewhere.

6. "Food court" means an area of a retail mall, office building, sports facility or other premises where one or more food service businesses are located and customer seating for dining and consumption of beverages is provided in a common area.

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

Passed by the City Council the 17th day of May, 2010, and signed by me in open session in authentication of its passage this 17th day of May, 2010.

Richard Conlin

President of the City Council

Approved by me this 20th day of May, 2010.

Michael McGinn, Mayor

Filed by me this 20th day of May, 2010.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily Journal of Commerce, May 28, 2010.

5/28(255371)