

Ordinance No. 123427

Council Bill No. 116954

AN ORDINANCE relating to solid waste reduction; establishing license requirements for publishers of yellow pages phone books; establishing an opt-out registry and a recovery fee for yellow pages phone books, and amending the Seattle Municipal Code by creating a new Chapter 6.255.

Related Legislation File: _____

Date Introduced and Referred: <u>Sept. 7, 2010</u>	To: <u>Seattle Public Utilities and Neighborhoods</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>Oct. 11, 2010</u>	Date Presented to Mayor: <u>Oct. 12, 2010</u>
Date Signed by Mayor: <u>Oct. 14, 2010</u>	Date Returned to City Clerk: <u>Oct. 15, 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: [Signature]

Committee Action:

Date	Recommendation	Vote
<u>9/20/10</u>	<u>Substitute version 8</u>	<u>Yes: MOB, RC</u>
	<u>Vote on version 8</u>	<u>Yes: MOB, RC</u>

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

Full Council Action:

Date	Decision	Vote
<u>10-4-10</u>	<u>Held</u>	<u>5-4</u> No: TB, MO, NL, RC
<u>10-11-10</u>	<u>Passed as amended @M</u>	<u>8-1</u> No: Godden

ORDINANCE 123427

1 AN ORDINANCE relating to solid waste reduction; establishing license requirements for
2 publishers of yellow pages phone books; establishing an opt-out registry and a recovery
3 fee for yellow pages phone books, and amending the Seattle Municipal Code by creating
4 a new Chapter 6.255.

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

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

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

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

18 WHEREAS, Resolution 30990 called for studies on how to reduce Seattleites' use of hard-to-
19 recycle materials; and

20 WHEREAS, costs associated with the collection and disposal of yellow pages phone books in
21 Seattle creates burdens on the City's solid waste disposal system; and

22 WHEREAS, to protect the privacy of the City's residents and businesses from unwanted
23 intrusions, it is necessary to regulate the distribution of yellow pages phone books and
24 provide an effective mechanism for the City's residents and businesses to opt-out of
25 receiving yellow pages phone books; and

26 WHEREAS, to recover the costs of collection and disposal of yellow pages phone books and the
27 costs of an Opt-Out Registry, it is necessary to impose a solid waste recovery fee on the
28 distribution of yellow pages phone books; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective January 1, 2011, a new Chapter is added to Title 6, Subtitle IV, of



1 the Seattle Municipal Code to read as follows:

2 **Chapter 6.255 Distributors of Yellow Pages Phone Books.**

3 **SMC 6.255.010 Purpose.**

4 The purpose of this chapter is to establish a yellow pages phone book distributor license
5 for persons engaged in the business of distributing yellow pages phone books in the City, to
6 require such licensees to provide the City with timely and accurate data on the quantities of
7 yellow pages phone books they distribute in the City, to impose a recovery fee on the distribution
8 of yellow pages phone books in the City, to establish a registry for residents and businesses to
9 opt-out of receiving yellow pages phone books, and to require licensees to refrain from
10 distributing yellow pages phone books to residents and businesses who have notified the registry
11 that they do not want to receive yellow pages phone books.
12

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15 **SMC 6.255.025 Definitions.**

16 For purposes of this chapter:

17 A. "Display advertising" means business advertising that includes text and/or various
18 graphic elements exceeding the use of bold face type and color highlighting of the business name
19 and telephone number.
20

21 B. "Distribution" means the unsolicited delivery of more than four tons annually of
22 yellow pages phone books to the addresses of residents and businesses within the City, but does
23 not include the delivery of yellow pages phone books by membership organizations to their
24 members or to other residents or businesses requesting or expressly accepting delivery.
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1 C. "Membership organization" means an organization that is organized and operated
2 primarily or exclusively for the purpose of providing services or benefits to a designated group
3 of members (identified, for example, by having to pay membership dues or participating in
4 membership events).

5
6 D. "Distributor" means a person or organization engaged in the business of arranging for
7 the distribution of yellow pages phone books in the City; the term is intended to cover those
8 persons or organizations who are primarily responsible for arranging for the publication and
9 distribution of the yellow pages phone books and whose income is derived, at least in part, from
10 the advertising contained in the yellow pages phone books. The term "distributor" is not
11 intended to include those individuals whose role in the distribution of yellow pages phone books
12 in the City is limited to driving the streets and making physical delivery of the yellow pages
13 phone books.
14

15
16 E. "Yellow pages phone book" means a publication that consists primarily of a listing of
17 business names and telephone numbers and contains display advertising for at least some of
18 those businesses (commonly, but not necessarily, printed on yellow paper).
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21 **SMC 6.255.030 License – Required.**

22
23 A. Commencing April 1, 2011, it shall be unlawful for any person to engage in business
24 as a distributor of yellow pages phone books in the City without first obtaining an annual yellow
25 pages phone book distributor license issued in accordance with the provisions of the new license
26



1 code. The annual license is required regardless of where publication takes place or the location
2 of the business's offices, storage or transshipment facilities.

3 B. The license required pursuant to this chapter is separate from and in addition to any
4 license required by any other chapter of the Seattle Municipal Code, including but not limited to
5 the business license required pursuant to chapter 5.55.
6

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8
9 **SMC 6.255.035 License – Required, Exceptions.**

10 Local exchange companies whose distribution of phone books in the City is limited to
11 only those phone books required by WAC 480-120-251 are not subject to the requirements of
12 this chapter.
13

14 **SMC 6.255.040 License – Expiration Date.**

15 Yellow pages phone book distributor licenses expire annually on March 31st.
16

17
18 **SMC 6.255.050 License – Application.**

19 Application for the yellow pages phone book distributor license shall be on forms
20 specified by the Director, and shall be accompanied by the license fee established by section
21 6.255.060, the annual report form required by section 6.255.080, and any recovery fees required
22 by section 6.255.100.
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2 **SMC 6.255.060 License – Fee.**

3 The annual license fee for the yellow pages phone book distributor license is One
4 Hundred Dollars (\$100.00).

5
6 **SMC 6.255.070 License -- Not Transferable.**

7 No license issued pursuant to this chapter shall be transferable unless in accordance with
8 the provisions of chapter 6.202.

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10
11 **SMC 6.255.080 Annual Reports.**

12 A. Every person submitting an application for a yellow pages phone book distributor
13 license shall include with the application an accurately completed report form describing the
14 quantities of yellow pages phone books the license applicant distributed within the City during
15 the previous calendar year.

16 B. Every person submitting an application for renewal of an existing license under this
17 chapter shall submit to the City before March 31st an accurately completed report form
18 describing the quantities of yellow pages phone books the license applicant distributed within the
19 City during the previous calendar year. The Director of Seattle Public Utilities shall specify the
20 information to be included in the report form, which must include at a minimum the number and
21 weight of yellow pages phone books distributed.

22 C. Annual report forms shall be provided by the City and distributed to all existing
23 licensees in conjunction with applications for license renewals.



1 D. Failure to submit a complete and accurate annual report form shall be grounds for the
2 denial of a license application.

3 E. Failure to submit a complete and accurate annual report form and the submission of a
4 materially inaccurate annual report form are each violations of this chapter.

5
6 **SMC 6.255.090 Opt-Out Registry.**

7
8 A. The Director of Seattle Public Utilities is authorized and directed to establish the
9 City's Opt-Out Registry to serve as a clearinghouse for residents and businesses to register and
10 indicate their desire not to receive delivery of some or all yellow pages phone books. The
11 registry shall maintain a list of the addresses of all residents and businesses who have indicated
12 their desire not to receive delivery of yellow pages phone books. The registry shall be
13 conveniently accessible to all residents and businesses and provide for notification by mail,
14 telephone, email, and online registration. The addresses of those residents and businesses who
15 have registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
16 yellow pages phone books shall remain on the registry until such time as the resident or business
17 moves or notifies the registry of their desire to be removed.
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19
20 B. The Director of Seattle Public Utilities or designee shall make available to all licensed
21 distributors the addresses of all residents and businesses who have registered with the City's Opt-
22 Out Registry indicating their desire not to receive delivery of yellow pages phone books.
23 Licensed distributors shall provide the City's Opt-Out Registry with accurate and current contact
24 information, including address and phone number, and shall provide the City's Opt-Out Registry
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1 on a routine basis with the addresses of all residents and businesses who have notified the
2 distributor directly of their desire not to receive delivery of yellow pages phone books.

3
4 C. No more than 30 days prior to distributing any yellow pages phone books within the
5 City, distributors shall download the addresses of those residents and businesses who have
6 registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
7 yellow pages phone books.

8
9 D. Distributors shall not make delivery of yellow pages phone books to the address of
10 any resident or business who registered with the City's Opt-Out Registry, prior to 30 days before
11 the date of delivery, indicating their desire not to receive delivery of yellow pages phone books.

12
13 E. The Director of Seattle Public Utilities is directed to issue an annual report to the City
14 Council in 2011, 2012, and 2013, evaluating the operation and impact of the City's Opt-Out
15 Registry. The Director will identify needed improvements, concerns expressed by residents or
16 businesses, and make recommendations for changing or enhancing the program.

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19 **SMC 6.255.100 Recovery Fee.**

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21 A. A recovery fee is hereby imposed on the distribution of yellow pages phone books
22 within the City to be calculated as follows: Fourteen Cents (\$0.14) for each yellow pages phone
23 book distributed within the City plus One Hundred Forty-Eight Dollars (\$148.00) per ton of
24 yellow pages phone books distributed within the City. The recovery fee is intended to reflect the
25 cost to the City of administering the Opt-Out Registry and collecting and recycling yellow pages
26



1 phone books. The Director of Seattle Public Utilities may recommend adjustments to the
2 recovery fee as part of the development of adjustments to the solid waste rates.

3 B. Annually and as otherwise may be required by the Director, based on the quantities
4 reported under section 6.255.080, distributors shall report and remit payment of the recovery fees
5 imposed under this section to the Director. Payments shall be reported on forms prescribed by
6 the Director. The form shall be signed by a responsible officer or agent of the distributor. The
7 individual signing the form shall swear or affirm that the information in the form is true and
8 correct.
9

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11 C. City revenue generated from the recovery fee imposed under this section shall be
12 deposited in the Solid Waste Fund.
13

14
15 **SMC 6.255.110 Distribution Requirements.**

16 A. Distributors shall prominently and conspicuously display on a portion of the front
17 cover of each yellow pages phone book distributed within the City the telephone number,
18 website and mailing address, in a format specified by the Director of Seattle Public Utilities, that
19 residents and businesses may use to notify the City's Opt-Out Registry of their desire not to
20 receive delivery of yellow pages phone books.
21

22
23 B. Distributors shall also prominently and conspicuously display on their websites a link
24 to the City's Opt-Out Registry together with information regarding the process for residents and
25 businesses to opt-out of receiving delivery of yellow pages phone books.
26



1 C. Distributors shall retain the list of opt-out addresses from the City opt-out registry that
2 was used at the time of delivery. This list shall be made available to the Director upon request
3 for purposes of investigation or appeal.

4
5 D. The content of all yellow pages phone books, and any materials included therewith,
6 distributed within the City shall be recyclable.

7
8 **SMC 6.255.120 Duty of licensee.**

9 It shall be the duty of all persons licensed under this chapter to comply with all applicable
10 provisions of the new license code. Failure of any licensee to do so shall be a violation of this
11 chapter.
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14 **SMC 6.255.130 Denial, Suspension or Revocation.**

15 The Director may deny, suspend or revoke any license issued under this chapter, in
16 accordance with the provisions of chapter 6.202. Failure of a licensee to comply with any
17 provision of this chapter is sufficient grounds for the denial, suspension or revocation of the
18 license. A license suspended or revoked may not be reinstated without prior payment of all
19 outstanding fees and penalties.
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21
22 **SMC 6.255.140 Civil Penalty.**

23 A. Any person who fails to comply with any provision of this chapter shall be subject to
24 a maximum civil penalty in the amount of One Hundred Twenty-Five Dollars (\$125.00) per
25 violation.
26



1 B. The City Attorney is authorized to initiate legal action to enforce this chapter as
2 deemed necessary and appropriate.

3
4 **SMC 6.255.150 Severability.**

5 Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be
6 declared unconstitutional or invalid for any reason, such decision shall not affect the validity of
7 the remaining portions of this chapter.
8

9 Section 2. The Director of Seattle Public Utilities shall assist the Director of Finance and
10 Administrative Services in the administration of this chapter. The Director of Finance and
11 Administrative Services shall have administrative responsibility for all typical and usual
12 licensing procedures for the yellow pages phone book distributor license, including but not
13 limited to maintaining a database of licensees and mailing applications for license renewals. The
14 Director of Seattle Public Utilities shall be responsible for the review and analysis of the annual
15 reports required by this chapter and for recommending that enforcement action be taken when
16 licensees fail to submit timely, complete and accurate annual reports or license applications or
17 otherwise fail to comply with the requirements of this chapter. The Director of Seattle Public
18 Utilities is authorized to adopt, in accordance with the provisions of the Administrative Code,
19 rules relating to the administration of this chapter, including but not limited to reporting
20 requirements, the opt-out registry, and the recovery fee established under this chapter. By
21 December 31, 2010, the Director of Finance and Administrative Services and the Director of
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1 Seattle Public Utilities shall develop an interdepartmental Memorandum of Agreement further
2 defining their respective roles in the administration of this chapter.

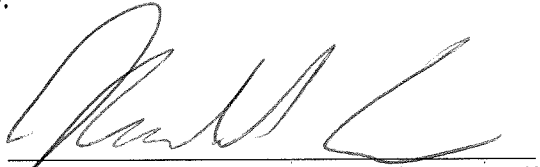
3
4 Section 3. The Director of Seattle Public Utilities is authorized to adopt, in accordance
5 with the provisions of the Administrative Code, rules specifying the criteria and procedures to
6 govern the process of granting exemptions under this section. A distributor may be exempted
7 from the requirements of SMC 6.255.090 (Opt-Out Registry), SMC 6.255.100 (Recovery Fee),
8 and SMC 6.255.110 A and B (Distribution Requirements) if the distributor can demonstrate to
9 the satisfaction of the Director of Seattle Public Utilities that it has established an effective
10 program to ensure delivery of yellow pages phone books to only those residents and businesses
11 who affirmatively request to receive delivery of yellow pages phone books.
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13
14 Section 4. The provisions of this ordinance are declared to be separate and severable. If
15 a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having
16 run, finds any provision of this ordinance to be invalid or unenforceable as to any person or
17 circumstance, such offending provision shall, if feasible, be deemed to be modified to be within
18 the limits of enforceability or validity. However, if the offending provision cannot be so
19 modified, it shall be null and void with respect to the particular person or circumstance, and all
20 other provisions of this ordinance in all other respects, and the offending provision with respect
21 to all other persons and all other circumstances, shall remain valid and enforceable.
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1 Section 5. This ordinance shall take effect and be in force 30 days from and after its
2 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
3 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
4


5 Passed by the City Council the 11th day of October, 2010, and
6 signed by me in open session in authentication of its passage this
7 11th day of October, 2010.
8

9
10 
11 President _____ of the City Council

12 Approved by me this 14th day of October, 2010.
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14 
15 Michael McGinn, Mayor
16

17 Filed by me this 15th day of October, 2010.
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19 
20 City Clerk
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22 (Seal)
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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Meg Moorehead, 4-8929	

Legislation Title:

AN ORDINANCE relating to solid waste reduction; establishing license requirements for publishers of yellow pages phone books; establishing an opt-out registry and a recovery fee for yellow pages phone books, and amending the Seattle Municipal Code by creating a new Chapter 6.255.

Summary of the Legislation:

To advance City waste reduction goals, this ordinance establishes a new business license for distributors of yellow pages phone books. To obtain or renew a license, a distributor would pay a \$100 license fee, agree to use a City-sponsored opt-out list, report how many books were delivered in Seattle, and pay a recovery fee for each delivered book and for each ton of books delivered. City enforcement and penalties would apply if the opt-out list is not honored. Fees would entirely cover program costs.

Background:

An estimated 1.9 million yellow pages telephone books are delivered each year in Seattle comprising 2,300 tons of paper that must be recycled through the City's solid waste system. Many people now find businesses through the internet and no longer want paper phone books. Although yellow pages publishers have lists of customers who have requested not to receive the books ("opt-out" lists), many customers are not aware of those lists and there is no single opt-out list covering all major yellow pages publishers. With the private opt-out lists, yellow pages are sometimes mistakenly delivered to customers who have opted-out, requiring each of those customers to follow up with publishers to ensure their opt-out request is honored. To advance City zero-waste goals, this ordinance addresses these issues by creating a single City-sponsored opt-out list, establishing a per-book recovery fee to pay City costs for an opt-out list, and setting a per-ton recovery fee for collection and recycling of yellow pages books. The opt-out list and recovery fees would be tied to a new business license for yellow pages distributors. Distributors requiring a license include persons or organizations responsible for publishing yellow pages phone books and distributing more than 4 tons of those books to addresses in the City. City enforcement and penalties would apply if publishers do not honor the opt-out list.

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:

Fund Name and Number	Department	Budget Control Level*	2010 Appropriation	2011 Anticipated Appropriation
TOTAL				

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

Appropriations Notes:

No new appropriation is requested at this time. It is anticipated that an appropriation to implement this ordinance would be added during 2011-2012 budget approval. Because the number of distributors is small, no new appropriation likely will be needed for the Department of Executive Administration (DEA). Additional appropriation for Seattle Public Utilities' (SPU's) Solid Waste Division could be \$275,000 in 2011 and \$225,000 in 2012 to pay for public outreach regarding the new opt-out service, and a contract for developing and operating that service.

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2010 Revenue	2011 Revenue
TOTAL				

Revenue/Reimbursement Notes:

Fees would fund ordinance implementation, including a \$100 license fee to cover DEA costs, a recovery fee of 14 cents/book to cover SPU's costs for the opt-out service, and a recovery fee of \$148/ton to pay for yellow pages collection and recycling. Because solid waste rates currently pay for yellow pages recycling, recovery fee revenue would offset \$340,000 to \$350,000 of solid waste rate revenue, helping to moderate rate increases proposed for 2011 and 2012.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2010 Positions	2010 FTE	2011 Positions*	2011 FTE*
TOTAL							

* 2010 positions and FTE are total 2010 position changes resulting from this legislation, not incremental changes. Therefore, under 2010, please be sure to include any continuing positions from 2009.



Position Notes:

No new positions are proposed.

Do positions sunset in the future?

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2010 Expenditures	2011 Anticipated Expenditures
TOTAL				

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

Spending/Cash Flow Notes:

What is the financial cost of not implementing the legislation?

If the legislation is not implemented, solid waste rates (and the customers who pay them) would continue to fund about \$340,000 in 2011 and \$350,000 in 2012 for yellow pages collection and recycling.

Does this legislation affect any departments besides the originating department?

Yes, it affects SPU and DEA.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

The no-action alternative would continue to rely on private opt-out systems that up to now have not achieved the level of waste reduction anticipated with the ordinance's opt-out and licensing system.

Is the legislation subject to public hearing requirements?

No.

Other Issues: (Include long-term implications of the legislation.)

List attachments to the fiscal note below:





**Legislative Department
Seattle City Council**

October 11, 2010

TO: Seattle Public Utilities and Neighborhoods (SPUN) Committee

FM: Meg Moorehead, Council Central Staff

RE: **Intermediate Versions of Yellow Pages Legislation**

The Council voted to substitute Version 9 of the yellow pages legislation for the previous version. Version 14 was substituted and passed at the October 11, 2010 full Council meeting. Versions 10, 11, 12 and 13 were internal working versions that were never considered in Committee or full Council.



ORDINANCE _____

1
2 AN ORDINANCE relating to solid waste reduction; establishing license requirements for
3 publishers of yellow pages phone books; establishing an opt-out registry and a recovery
4 fee for yellow pages phone books, and amending the Seattle Municipal Code by creating
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5 WHEREAS, the Washington State Legislature in RCW 70.95.010(8)(a) established waste
6 reduction as the first priority for the collection, handling, and management of solid waste;
and

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

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

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

17 WHEREAS, Resolution 30990 called for studies on how to reduce Seattleites' use of hard-to-
18 recycle materials; and

19 WHEREAS, costs associated with the collection and disposal of yellow pages phone books in
20 Seattle creates burdens on the City's solid waste disposal system; and

21 WHEREAS, to discourage and decrease the unwanted distribution of yellow pages phone books
22 in the city, it is necessary to regulate such use and distribution; and

23 WHEREAS, it is in the best interest of the health, safety and welfare of the people that regulation
24 include the imposition of a fee to discourage the distribution of unwanted yellow pages
25 phone books, to recover the cost of recycling and disposal by the City, to protect the
26 environment, and to recover the costs of regulation; NOW, THEREFORE,

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

28 Section 1. Effective January 1, 2011, a new Chapter is added to Title 6, Subtitle IV, of

THIS VERSION IS NOT ADOPTED



1 the Seattle Municipal Code to read as follows:

2 **Chapter 6.255 Publishers of Yellow Pages Phone Books.**

3 **SMC 6.255.010 Purpose.**

4 The purpose of this chapter is to establish a yellow pages phone book publisher license
5 for persons engaged in the business of publishing and distributing yellow pages phone books in
6 the City, to require such licensees to provide the City with timely and accurate data on the
7 quantities of yellow pages phone books they distribute in the City, to impose a recovery fee on
8 the distribution of yellow pages phone books in the City, to establish a registry for residents and
9 businesses to opt-out of receiving yellow pages phone books, and to require licensees to refrain
10 from distributing yellow pages phone books to residents and businesses who have notified the
11 registry that they do not want to receive yellow pages phone books.
12

13
14
15 **SMC 6.255.025 Definitions.**

16 For purposes of this chapter:

17 A. "Publisher" means a person engaged in the business of publishing and arranging for
18 the distribution of yellow pages phone books in the City. The term "publisher" is not intended to
19 include those individuals whose role in the distribution of yellow pages phone books in the City
20 is limited to driving the streets and making physical delivery of the yellow pages phone books;
21 rather the term is intended to cover those persons who are primarily responsible for arranging for
22 the publication and distribution of the yellow pages phone books and whose income is derived, at
23 least in part, from the advertising contained in the yellow pages phone books.
24
25
26
27

THIS VERSION IS NOT ADJUSTED



1 B. "Yellow pages phone book" means a publication that includes a listing of business
2 names and telephone numbers and contains display advertising for at least some of those
3 businesses (commonly, but not necessarily, printed on yellow paper).

4 C. "Display advertising" means business advertising that includes text and/or various
5 graphic elements exceeding the use of bold face type and color highlighting of the business name
6 and telephone number.

7
8 **SMC 6.255.030 License – Required.**

9
10 A. Commencing April 1, 2011, it shall be unlawful for any person to engage in business
11 as a publisher of yellow pages phone books in the City without first obtaining an annual yellow
12 pages phone book publisher license issued in accordance with the provisions of the new license
13 code. The annual license is required regardless of where publication takes place or the location
14 of the business's offices, storage or transshipment facilities.

15
16 B. The license required pursuant to this chapter is separate from and in addition to any
17 license required by any other chapter of the Seattle Municipal Code, including but not limited to
18 the business license required pursuant to chapter 5.55.

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21 **SMC 6.255.035 License – Required, Exceptions.**

22 Local exchange companies whose publication and distribution of phone books in the City
23 is limited to only those phone books required by WAC 480-120-251 are not subject to the
24 requirements of this chapter.
25
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27
28

1 **SMC 6.255.040 License – Expiration Date.**

2 Yellow pages phone book publisher licenses expire annually on March 31st.

3
4 **SMC 6.255.050 License – Application.**

5 Application for the yellow pages phone book publisher license shall be on forms
6 specified by the Director, and shall be accompanied by the license fee established by section
7 6.255.060, the annual report form required by section 6.255.080, and any recovery fees required
8 by section 6.255.100.
9

10 **SMC 6.255.060 License – Fee.**

11 The annual license fee for the yellow pages phone book publisher license is One Hundred
12 Dollars (\$100.00).
13

14 **SMC 6.255.070 License -- Not Transferable.**

15 No license issued pursuant to this chapter shall be transferable unless in accordance with
16 the provisions of chapter 6.202.
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20 A. Every person submitting an application for a yellow pages phone book publisher
21 license shall include with the application an accurately completed report form describing the
22 quantities of yellow pages phone books the license applicant distributed within the City during
23 the previous calendar year.
24
25
26

THIS VERSION IS NOT ADOPTED



1 B. Every person submitting an application for renewal of an existing license under this
2 chapter shall submit to the City before March 31st an accurately completed report form
3 describing the quantities of yellow pages phone books the license applicant distributed within the
4 City during the previous calendar year. The Director of Seattle Public Utilities shall specify the
5 information to be included in the report form, which must include at a minimum the number and
6 weight of yellow pages phone books distributed.

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8 C. Annual report forms shall be provided by the City and distributed to all existing
9 licensees in conjunction with applications for license renewals.

10 D. Failure to submit a complete and accurate annual report form shall be grounds for the
11 denial of a license application.

12 E. Failure to submit a complete and accurate annual report form and the submission of a
13 materially inaccurate annual report form are each violations of this chapter.
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15
16 **SMC 6.255.090 Opt-Out Registry.**

17 A. The Director of Seattle Public Utilities is authorized and directed to establish the
18 City's Opt-Out Registry to serve as a clearinghouse for residents and businesses to register and
19 indicate their desire not to receive delivery of some or all yellow pages phone books. The
20 registry shall maintain a list of the addresses of all residents and businesses who have indicated
21 their desire not to receive delivery of yellow pages phone books. The registry shall be
22 conveniently accessible to all residents and businesses and provide for notification by mail,
23 telephone, email, and online registration. The addresses of those residents and businesses who
24 have registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
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THIS VERSION IS NOT ADOPTED



1 yellow pages phone books shall remain on the registry until such time as the resident or business
2 notifies the registry of their desire be removed.

3 B. The Director of Seattle Public Utilities shall make available to all licensed publishers
4 the addresses of all residents and businesses who have registered with the City's Opt-Out
5 Registry indicating their desire not to receive delivery of yellow pages phone books. Licensed
6 publishers shall provide the City's Opt-Out Registry with accurate and current contact
7 information, including address and phone number, and shall provide the City's Opt-Out Registry
8 on a routine basis with the addresses of all residents and businesses who have notified the
9 publisher directly of their desire not to receive delivery of yellow pages phone books.
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11 C. No more than 30 days prior to distributing any yellow pages phone books within the
12 City, publishers shall download the addresses of those residents and businesses who have
13 registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
14 yellow pages phone books.
15

16 D. Publishers shall not make delivery of yellow pages phone books to the address of any
17 resident or business who registered with the City's Opt-Out Registry, prior to 30 days before the
18 date of delivery, indicating their desire not to receive delivery of yellow pages phone books.
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21 **SMC 6.255.100 Recovery Fee.**

22 A. A recovery fee of Forty Cents (\$0.40) is hereby imposed on the distribution of each
23 yellow pages phone book within the City. The recovery fee is intended to reflect the cost to the
24 City of collecting and recycling yellow pages phone books and administering the Opt-Out
25

1 Registry. The Director of Seattle Public Utilities may recommend adjustments to the recovery
2 fee as part of the development of adjustments to the solid waste rates.

3 B. Annually and as otherwise may be required by the Director, based on the quantities
4 reported under section 6.255.080, publishers shall report and remit payment of the recovery fees
5 imposed under this section to the Director. Payments shall be reported on forms prescribed by
6 the Director. The form shall be signed by a responsible officer or agent of the publisher. The
7 individual signing the form shall swear or affirm that the information in the form is true and
8 correct.
9

10 C. City revenue generated from the recovery fee imposed under this section shall be
11 deposited in the Solid Waste Fund.
12

13 **SMC 6.255.110 Distribution Requirements.**
14

15 A. Publishers shall also prominently and conspicuously display on the front cover of
16 each yellow pages phone book distributed within the City the telephone number, website and
17 mailing address, in a format specified by the Director of Seattle Public Utilities, that residents
18 and businesses may use to notify the City's Opt-Out Registry of their desire not to receive
19 delivery of yellow pages phone books.
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21 B. Publishers shall also prominently and conspicuously display on their websites a link
22 to the City's Opt-Out Registry together with information regarding the process for residents and
23 businesses to opt-out of receiving delivery of yellow pages phone books.
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1 C. Publishers shall maintain a list of addresses to which yellow pages phone books are in
2 fact delivered. This list shall be made available to the Director upon request for purposes of
3 investigation or appeal.

4 D. The content of all yellow pages phone books, and any materials included therewith,
5 distributed within the City shall be recyclable.

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8 **SMC 6.255.120 Duty of licensee.**

9 It shall be the duty of all persons licensed under this chapter to comply with all applicable
10 provisions of the new license code. Failure of any licensee to do so shall be a violation of this
11 chapter.

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14 **SMC 6.255.130 Denial, Suspension or Revocation.**

15 The Director may deny, suspend or revoke any license issued under this chapter, in
16 accordance with the provisions of chapter 6.202. Failure of a licensee to comply with any
17 provision of this chapter is sufficient grounds for the denial, suspension or revocation of the
18 license. A license suspended or revoked may not be reinstated without prior payment of all
19 outstanding fees and penalties.
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THIS VERSION IS NOT ADOPTED



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SMC 6.255.140 Civil Penalty.

A. Any person who fails to comply with any provision of this chapter shall be subject to a maximum civil penalty in the amount of One Hundred Twenty-Five Dollars (\$125.00) per violation.

B. The City Attorney is authorized to initiate legal action to enforce this chapter as deemed necessary and appropriate.

SMC 6.255.150 Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter.

Section 2. The Director of Seattle Public Utilities shall assist the Director of Executive Administration in the administration of this chapter. The Director of Executive Administration shall have administrative responsibility for all typical and usual licensing procedures for the yellow pages phone book distributor license, including but not limited to maintaining a database of licensees and mailing applications for license renewals. The Director of Seattle Public Utilities shall be responsible for the review and analysis of the annual reports required by this chapter and for recommending that enforcement action be taken when licensees fail to submit timely, complete and accurate annual reports or license applications or otherwise fail to comply with the requirements of this chapter. The Director of Seattle Public Utilities is authorized to

THIS VERSION IS NOT ADOPTED



1 adopt, in accordance with the provisions of the Administrative Code, rules relating to the
2 administration of this chapter, including but not limited to reporting requirements, the opt-out
3 registry, and the recovery fee established under this chapter. By December 31, 2010, the
4 Director of Executive Administration and the Director of Seattle Public Utilities shall develop an
5 interdepartmental Memorandum of Agreement further defining their respective roles in the
6 administration of this chapter.
7

8
9 Section 3. Any publisher that can demonstrate to the satisfaction of the Director of
10 Seattle Public Utilities that it has established an effective program to ensure delivery of yellow
11 pages phone books to only those residents and businesses who affirmatively request to receive
12 delivery of yellow pages phone books may be exempted from the requirements of SMC
13 6.255.090 (Opt-Out Registry), SMC 6.255.100 (Recovery Fee), and SMC 6.255.110 A and B
14 (Distribution Requirements). The Director of Seattle Public Utilities is authorized to adopt, in
15 accordance with the provisions of the Administrative Code, rules specifying the criteria and
16 procedures to govern the process of granting exemptions under this section.
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2 Section 4. This ordinance shall take effect and be in force 30 days from and after its
3 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
4 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
5

6 Passed by the City Council the ____ day of _____, 2010, and
7 signed by me in open session in authentication of its passage this
8 ____ day of _____, 2010.
9

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11
12 _____
13 President _____ of the City Council

14 Approved by me this ____ day of _____, 2010.

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16 _____
17 Michael McGinn, Mayor

18 Filed by me this ____ day of _____, 2010.
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22 City Clerk

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27 (Seal)

THIS VERSION IS NOT ADOPTED



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
	Meg Moorehead, 4-8929	

Legislation Title:

AN ORDINANCE relating to solid waste reduction; establishing license requirements for publishers of yellow pages phone books; establishing an opt-out registry and a recovery fee for yellow pages phone books, and amending the Seattle Municipal Code by creating a new Chapter 6.255.

Summary of the Legislation:

To advance City waste reduction goals, this ordinance establishes a new business license for yellow pages publishers. To obtain or renew a license, a publisher would pay a \$100 license fee, agree to use a City-sponsored opt-out list, report how many books were delivered in Seattle, and pay a recovery fee for each of those books. City enforcement and penalties would apply if the opt-out list is not honored. Fees would entirely cover program costs.

Background:

An estimated 1.5 million yellow pages telephone books are delivered each year in Seattle comprising 2,300 tons of paper that must be recycled through the City's solid waste system. Many people now find businesses through the internet and no longer want paper phone books. Although yellow pages publishers have lists of customers who have requested not to receive the books ("opt-out" lists), many customers are not aware of those lists and there is no single opt-out list covering the 3 major yellow pages publishers. With the private opt-out lists, yellow pages are sometimes mistakenly delivered to customers who have opted-out, requiring each of those customers to follow up with publishers to ensure their opt-out request is honored. To advance City zero-waste goals, this ordinance addresses these issues by creating a single City-sponsored opt-out list, and establishing a per-book recovery fee to pay City costs for an opt-out list and recycling of yellow pages books. The opt-out list and recovery fee would be tied to a new business license for yellow pages publishers. City enforcement and penalties would apply if publishers do not honor the opt-out list.

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.)

THIS VERSION IS NOT ADOPTED



Appropriations:

Fund Name and Number	Department	Budget Control Level*	2010 Appropriation	2011 Anticipated Appropriation
TOTAL				

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

Appropriations Notes:

No new appropriation is requested at this time. It is anticipated that an appropriation to implement this ordinance would be added during 2011-2012 budget approval. Because the number of publishers is small, no new appropriation likely will be needed for the Department of Executive Administration (DEA). Additional appropriation for Seattle Public Utilities' (SPU's) Solid Waste Division could be \$275,000 in 2011 and \$225,000 in 2012 to pay for public outreach regarding the new opt-out service, and a contract for developing and operating that service.

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2010 Revenue	2011 Revenue
TOTAL				

Revenue/Reimbursement Notes:

Fees would fund ordinance implementation, including a \$100 license fee to cover DEA costs and a recovery fee of 40 cents/book to cover SPU's costs for the opt-out service and yellow pages recycling. Because solid waste rates currently pay for yellow pages recycling, recovery fee revenue would offset about \$340,000 of solid waste rate revenue, helping to moderate rate increases proposed for 2011 and 2012.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2010 Positions	2010 FTE	2011 Positions*	2011 FTE*
TOTAL							

* 2010 positions and FTE are total 2010 position changes resulting from this legislation, not incremental changes. Therefore, under 2010, please be sure to include any continuing positions from 2009.

THIS VERSION IS NOT ADOPTED



Position Notes:

No new positions are proposed.

Do positions sunset in the future?

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2010 Expenditures	2011 Anticipated Expenditures
TOTAL				

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

Spending/Cash Flow Notes:

What is the financial cost of not implementing the legislation?

If the legislation is not implemented, solid waste rates (and the customers who pay them) would continue to fund about \$340,000 per year for yellow pages recycling.

Does this legislation affect any departments besides the originating department?

Yes, it affects SPU and DEA.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

The no-action alternative would continue to rely on private opt-out systems that up to now have not achieved the level of waste reduction anticipated with the ordinance's opt-out and licensing system.

Is the legislation subject to public hearing requirements?

No.

Other Issues: (Include long-term implications of the legislation.)

List attachments to the fiscal note below:

THIS VERSION IS NOT ADOPTED



ORDINANCE _____

1
2 AN ORDINANCE relating to solid waste reduction; establishing license requirements for
3 publishers of yellow pages phone books; establishing an opt-out registry and a recovery
4 fee for yellow pages phone books, and amending the Seattle Municipal Code by creating
a new Chapter 6.255.

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

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

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

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

15 WHEREAS, Resolution 30990 called for studies on how to reduce Seattleites' use of hard-to-
16 recycle materials; and

17 WHEREAS, costs associated with the collection and disposal of yellow pages phone books in
18 Seattle creates burdens on the City's solid waste disposal system; and

19 WHEREAS, to protect the privacy of the City's residents and businesses from unwanted
20 intrusions, it is necessary to regulate the distribution of yellow pages phone books and
21 provide an effective mechanism for the City's residents and businesses to opt-out of
receiving yellow pages phone books; and

22 WHEREAS, to recover the costs of collection and disposal of yellow pages phone books and the
23 costs of an Opt-Out Registry, it is necessary to impose a solid waste recovery fee on the
24 distribution of yellow pages phone books; NOW, THEREFORE,

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

26 Section 1. Effective January 1, 2011, a new Chapter is added to Title 6, Subtitle IV, of

THIS VERSION IS NOT ADOPTED

the Seattle Municipal Code to read as follows:

Chapter 6.255 Publishers of Yellow Pages Phone Books.

SMC 6.255.010 Purpose.

The purpose of this chapter is to establish a yellow pages phone book publisher license for persons engaged in the business of publishing and distributing yellow pages phone books in the City, to require such licensees to provide the City with timely and accurate data on the quantities of yellow pages phone books they distribute in the City, to impose a recovery fee on the distribution of yellow pages phone books in the City, to establish a registry for residents and businesses to opt-out of receiving yellow pages phone books, and to require licensees to refrain from distributing yellow pages phone books to residents and businesses who have notified the registry that they do not want to receive yellow pages phone books.

SMC 6.255.025 Definitions.

For purposes of this chapter:

A. "Publisher" means a person engaged in the business of publishing and arranging for the distribution of yellow pages phone books in the City. The term "publisher" is not intended to include those individuals whose role in the distribution of yellow pages phone books in the City is limited to driving the streets and making physical delivery of the yellow pages phone books; rather the term is intended to cover those persons who are primarily responsible for arranging for the publication and distribution of the yellow pages phone books and whose income is derived, at least in part, from the advertising contained in the yellow pages phone books.

THIS VERSION IS NOT ADOPTED

1 B. "Yellow pages phone book" means a publication that includes a listing of business
2 names and telephone numbers and contains display advertising for at least some of those
3 businesses (commonly, but not necessarily, printed on yellow paper).

4 C. "Display advertising" means business advertising that includes text and/or various
5 graphic elements exceeding the use of bold face type and color highlighting of the business name
6 and telephone number.

7
8 **SMC 6.255.030 License – Required.**

9
10 A. Commencing April 1, 2011, it shall be unlawful for any person to engage in business
11 as a publisher of yellow pages phone books in the City without first obtaining an annual yellow
12 pages phone book publisher license issued in accordance with the provisions of the new license
13 code. The annual license is required regardless of where publication takes place or the location
14 of the business's offices, storage or transshipment facilities.

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16 B. The license required pursuant to this chapter is separate from and in addition to any
17 license required by any other chapter of the Seattle Municipal Code, including but not limited to
18 the business license required pursuant to chapter 5.55.

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21 **SMC 6.255.035 License – Required, Exceptions.**

22 Local exchange companies whose publication and distribution of phone books in the City
23 is limited to only those phone books required by WAC 480-120-251 are not subject to the
24 requirements of this chapter.
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THIS VERSION IS NOT ADOPTED

1 **SMC 6.255.040 License – Expiration Date.**

2 Yellow pages phone book publisher licenses expire annually on March 31st.

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5 **SMC 6.255.050 License – Application.**

6 Application for the yellow pages phone book publisher license shall be on forms
7 specified by the Director, and shall be accompanied by the license fee established by section
8 6.255.060, the annual report form required by section 6.255.080, and any recovery fees required
9 by section 6.255.100.

10
11 **SMC 6.255.060 License – Fee.**

12 The annual license fee for the yellow pages phone book publisher license is One Hundred
13 Dollars (\$100.00).

14
15 **SMC 6.255.070 License -- Not Transferable.**

16 No license issued pursuant to this chapter shall be transferable unless in accordance with
17 the provisions of chapter 6.202.

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20 **SMC 6.255.080 Annual Reports.**

21 A. Every person submitting an application for a yellow pages phone book publisher
22 license shall include with the application an accurately completed report form describing the
23 quantities of yellow pages phone books the license applicant distributed within the City during
24 the previous calendar year.

THIS VERSION IS NOT ADOPTED

1 B. Every person submitting an application for renewal of an existing license under this
2 chapter shall submit to the City before March 31st an accurately completed report form
3 describing the quantities of yellow pages phone books the license applicant distributed within the
4 City during the previous calendar year. The Director of Seattle Public Utilities shall specify the
5 information to be included in the report form, which must include at a minimum the number and
6 weight of yellow pages phone books distributed.

7
8 C. Annual report forms shall be provided by the City and distributed to all existing
9 licensees in conjunction with applications for license renewals.

10 D. Failure to submit a complete and accurate annual report form shall be grounds for the
11 denial of a license application.

12 E. Failure to submit a complete and accurate annual report form and the submission of a
13 materially inaccurate annual report form are each violations of this chapter.

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16 **SMC 6.255.090 Opt-Out Registry.**

17 A. The Director of Seattle Public Utilities is authorized and directed to establish the
18 City's Opt-Out Registry to serve as a clearinghouse for residents and businesses to register and
19 indicate their desire not to receive delivery of some or all yellow pages phone books. The
20 registry shall maintain a list of the addresses of all residents and businesses who have indicated
21 their desire not to receive delivery of yellow pages phone books. The registry shall be
22 conveniently accessible to all residents and businesses and provide for notification by mail,
23 telephone, email, and online registration. The addresses of those residents and businesses who
24 have registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
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1 yellow pages phone books shall remain on the registry until such time as the resident or business
2 moves or notifies the registry of their desire be removed.

3 B. The Director of Seattle Public Utilities shall make available to all licensed publishers
4 the addresses of all residents and businesses who have registered with the City's Opt-Out
5 Registry indicating their desire not to receive delivery of yellow pages phone books. Licensed
6 publishers shall provide the City's Opt-Out Registry with accurate and current contact
7 information, including address and phone number, and shall provide the City's Opt-Out Registry
8 on a routine basis with the addresses of all residents and businesses who have notified the
9 publisher directly of their desire not to receive delivery of yellow pages phone books.

11 C. No more than 30 days prior to distributing any yellow pages phone books within the
12 City, publishers shall download the addresses of those residents and businesses who have
13 registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
14 yellow pages phone books.

16 D. Publishers shall not make delivery of yellow pages phone books to the address of any
17 resident or business who registered with the City's Opt-Out Registry, prior to 30 days before the
18 date of delivery, indicating their desire not to receive delivery of yellow pages phone books.

21 **SMC 6.255.100 Recovery Fee.**

22 A. A recovery fee is hereby imposed on the distribution of yellow pages phone books
23 within the City to be calculated as follows: Fourteen Cents (\$0.14) for each yellow pages phone
24 book distributed within the City plus One Hundred Forty-Eight Dollars (\$148.00) per ton of
25 yellow pages phone books distributed within the City. The recovery fee is intended to reflect the
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1 cost to the City of administering the Opt-Out Registry and collecting and recycling yellow pages
2 phone books. The Director of Seattle Public Utilities may recommend adjustments to the
3 recovery fee as part of the development of adjustments to the solid waste rates.

4 B. Annually and as otherwise may be required by the Director, based on the quantities
5 reported under section 6.255.080, publishers shall report and remit payment of the recovery fees
6 imposed under this section to the Director. Payments shall be reported on forms prescribed by
7 the Director. The form shall be signed by a responsible officer or agent of the publisher. The
8 individual signing the form shall swear or affirm that the information in the form is true and
9 correct.
10

11 C. City revenue generated from the recovery fee imposed under this section shall be
12 deposited in the Solid Waste Fund.
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15 **SMC 6.255.110 Distribution Requirements.**

16 A. Publishers shall prominently and conspicuously display on a portion of the front
17 cover of each yellow pages phone book distributed within the City the telephone number,
18 website and mailing address, in a format specified by the Director of Seattle Public Utilities, that
19 residents and businesses may use to notify the City's Opt-Out Registry of their desire not to
20 receive delivery of yellow pages phone books.
21

22 B. Publishers shall also prominently and conspicuously display on their websites a link
23 to the City's Opt-Out Registry together with information regarding the process for residents and
24 businesses to opt-out of receiving delivery of yellow pages phone books.
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1 C. Publishers shall retain the list of opt-out addresses from the City opt-out registry that
2 was used at the time of delivery. This list shall be made available to the Director upon request
3 for purposes of investigation or appeal.

4 D. The content of all yellow pages phone books, and any materials included therewith,
5 distributed within the City shall be recyclable.

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8 **SMC 6.255.120 Duty of licensee.**

9 It shall be the duty of all persons licensed under this chapter to comply with all applicable
10 provisions of the new license code. Failure of any licensee to do so shall be a violation of this
11 chapter.

12
13 **SMC 6.255.130 Denial, Suspension or Revocation.**

14 The Director may deny, suspend or revoke any license issued under this chapter, in
15 accordance with the provisions of chapter 6.202. Failure of a licensee to comply with any
16 provision of this chapter is sufficient grounds for the denial, suspension or revocation of the
17 license. A license suspended or revoked may not be reinstated without prior payment of all
18 outstanding fees and penalties.
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THIS VERSION IS NOT ADOPTED

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SMC 6.255.140 Civil Penalty.

A. Any person who fails to comply with any provision of this chapter shall be subject to a maximum civil penalty in the amount of One Hundred Twenty-Five Dollars (\$125.00) per violation.

B. The City Attorney is authorized to initiate legal action to enforce this chapter as deemed necessary and appropriate.

SMC 6.255.150 Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter.

Section 2. The Director of Seattle Public Utilities shall assist the Director of Finance and Administrative Services in the administration of this chapter. The Director of Finance and Administrative Services shall have administrative responsibility for all typical and usual licensing procedures for the yellow pages phone book distributor license, including but not limited to maintaining a database of licensees and mailing applications for license renewals. The Director of Seattle Public Utilities shall be responsible for the review and analysis of the annual reports required by this chapter and for recommending that enforcement action be taken when licensees fail to submit timely, complete and accurate annual reports or license applications or otherwise fail to comply with the requirements of this chapter. The Director of Seattle Public

THIS VERSION IS NOT ADOPTED

1 Utilities is authorized to adopt, in accordance with the provisions of the Administrative Code,
2 rules relating to the administration of this chapter, including but not limited to reporting
3 requirements, the opt-out registry, and the recovery fee established under this chapter. By
4 December 31, 2010, the Director of Finance and Administrative Services and the Director of
5 Seattle Public Utilities shall develop an interdepartmental Memorandum of Agreement further
6 defining their respective roles in the administration of this chapter.
7

8
9 Section 3. Any publisher that can demonstrate to the satisfaction of the Director of
10 Seattle Public Utilities that it has established an effective program to ensure delivery of yellow
11 pages phone books only to their organization's membership and those residents and businesses
12 who affirmatively request to receive delivery of yellow pages phone books may be exempted
13 from the requirements of SMC 6.255.090 (Opt-Out Registry), SMC 6.255.100 (Recovery Fee),
14 and SMC 6.255.110 A and B (Distribution Requirements). The Director of Seattle Public
15 Utilities is authorized to adopt, in accordance with the provisions of the Administrative Code,
16 rules specifying the criteria and procedures to govern the process of granting exemptions under
17 this section.
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Section 4. 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 ____ day of _____, 2010, and signed by me in open session in authentication of its passage this ____ day of _____, 2010.

President _____ of the City Council

Approved by me this ____ day of _____, 2010.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2010.

City Clerk

(Seal)

THIS VERSION IS NOT ADOPTED

ORDINANCE _____

1
2 AN ORDINANCE relating to solid waste reduction; establishing license requirements for
3 publishers of yellow pages phone books; establishing an opt-out registry and a recovery
4 fee for yellow pages phone books, and amending the Seattle Municipal Code by creating
a new Chapter 6.255.

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

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

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

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

15 WHEREAS, Resolution 30990 called for studies on how to reduce Seattleites' use of hard-to-
16 recycle materials; and

17 WHEREAS, costs associated with the collection and disposal of yellow pages phone books in
Seattle creates burdens on the City's solid waste disposal system; and

18 WHEREAS, to protect the privacy of the City's residents and businesses from unwanted
19 intrusions, it is necessary to regulate the distribution of yellow pages phone books and
20 provide an effective mechanism for the City's residents and businesses to opt-out of
receiving yellow pages phone books; and

21 WHEREAS, to recover the costs of collection and disposal of yellow pages phone books and the
22 costs of an Opt-Out Registry, it is necessary to impose a solid waste recovery fee on the
23 distribution of yellow pages phone books; NOW, THEREFORE,

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

25 Section 1. Effective January 1, 2011, a new Chapter is added to Title 6, Subtitle IV, of
26

THIS VERSION IS NOT ADOPTED

the Seattle Municipal Code to read as follows:

Chapter 6.255 Publishers of Yellow Pages Phone Books.

SMC 6.255.010 Purpose.

The purpose of this chapter is to establish a yellow pages phone book publisher license for persons engaged in the business of publishing and distributing yellow pages phone books in the City, to require such licensees to provide the City with timely and accurate data on the quantities of yellow pages phone books they distribute in the City, to impose a recovery fee on the distribution of yellow pages phone books in the City, to establish a registry for residents and businesses to opt-out of receiving yellow pages phone books, and to require licensees to refrain from distributing yellow pages phone books to residents and businesses who have notified the registry that they do not want to receive yellow pages phone books.

SMC 6.255.025 Definitions.

For purposes of this chapter:

A. "Publisher" means a person engaged in the business of publishing and arranging for the distribution of yellow pages phone books in the City. The term "publisher" is not intended to include those individuals whose role in the distribution of yellow pages phone books in the City is limited to driving the streets and making physical delivery of the yellow pages phone books; rather the term is intended to cover those persons who are primarily responsible for arranging for the publication and distribution of the yellow pages phone books and whose income is derived, at least in part, from the advertising contained in the yellow pages phone books.

THIS VERSION IS NOT ADOPTED

1 B. "Yellow pages phone book" means a publication that includes a listing of business
2 names and telephone numbers and contains display advertising for at least some of those
3 businesses (commonly, but not necessarily, printed on yellow paper).

4 C. "Display advertising" means business advertising that includes text and/or various
5 graphic elements exceeding the use of bold face type and color highlighting of the business name
6 and telephone number.

7
8 **SMC 6.255.030 License – Required.**

9
10 A. Commencing April 1, 2011, it shall be unlawful for any person to engage in business
11 as a publisher of yellow pages phone books in the City without first obtaining an annual yellow
12 pages phone book publisher license issued in accordance with the provisions of the new license
13 code. The annual license is required regardless of where publication takes place or the location
14 of the business's offices, storage or transshipment facilities.

15
16 B. The license required pursuant to this chapter is separate from and in addition to any
17 license required by any other chapter of the Seattle Municipal Code, including but not limited to
18 the business license required pursuant to chapter 5.55.

19
20
21 **SMC 6.255.035 License – Required, Exceptions.**

22 Local exchange companies whose publication and distribution of phone books in the City
23 is limited to only those phone books required by WAC 480-120-251 are not subject to the
24 requirements of this chapter.
25

1 **SMC 6.255.040 License – Expiration Date.**

2 Yellow pages phone book publisher licenses expire annually on March 31st.

3
4 **SMC 6.255.050 License – Application.**

5
6 Application for the yellow pages phone book publisher license shall be on forms
7 specified by the Director, and shall be accompanied by the license fee established by section
8 6.255.060, the annual report form required by section 6.255.080, and any recovery fees required
9 by section 6.255.100.

10
11 **SMC 6.255.060 License – Fee.**

12 The annual license fee for the yellow pages phone book publisher license is One Hundred
13 Dollars (\$100.00).

14
15 **SMC 6.255.070 License -- Not Transferable.**

16 No license issued pursuant to this chapter shall be transferable unless in accordance with
17 the provisions of chapter 6.202.

18
19 **SMC 6.255.080 Annual Reports.**

20 A. Every person submitting an application for a yellow pages phone book publisher
21 license shall include with the application an accurately completed report form describing the
22 quantities of yellow pages phone books the license applicant distributed within the City during
23 the previous calendar year.

1 B. Every person submitting an application for renewal of an existing license under this
2 chapter shall submit to the City before March 31st an accurately completed report form
3 describing the quantities of yellow pages phone books the license applicant distributed within the
4 City during the previous calendar year. The Director of Seattle Public Utilities shall specify the
5 information to be included in the report form, which must include at a minimum the number and
6 weight of yellow pages phone books distributed.

7
8 C. Annual report forms shall be provided by the City and distributed to all existing
9 licensees in conjunction with applications for license renewals.

10 D. Failure to submit a complete and accurate annual report form shall be grounds for the
11 denial of a license application.

12 E. Failure to submit a complete and accurate annual report form and the submission of a
13 materially inaccurate annual report form are each violations of this chapter.
14

15
16 **SMC 6.255.090 Opt-Out Registry.**

17 A. The Director of Seattle Public Utilities is authorized and directed to establish the
18 City's Opt-Out Registry to serve as a clearinghouse for residents and businesses to register and
19 indicate their desire not to receive delivery of some or all yellow pages phone books. The
20 registry shall maintain a list of the addresses of all residents and businesses who have indicated
21 their desire not to receive delivery of yellow pages phone books. The registry shall be
22 conveniently accessible to all residents and businesses and provide for notification by mail,
23 telephone, email, and online registration. The addresses of those residents and businesses who
24 have registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
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1 yellow pages phone books shall remain on the registry until such time as the resident or business
2 moves or notifies the registry of their desire be removed.

3 B. The Director of Seattle Public Utilities shall make available to all licensed publishers
4 the addresses of all residents and businesses who have registered with the City's Opt-Out
5 Registry indicating their desire not to receive delivery of yellow pages phone books. Licensed
6 publishers shall provide the City's Opt-Out Registry with accurate and current contact
7 information, including address and phone number, and shall provide the City's Opt-Out Registry
8 on a routine basis with the addresses of all residents and businesses who have notified the
9 publisher directly of their desire not to receive delivery of yellow pages phone books.

10 C. No more than 30 days prior to distributing any yellow pages phone books within the
11 City, publishers shall download the addresses of those residents and businesses who have
12 registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
13 yellow pages phone books.

14 D. Publishers shall not make delivery of yellow pages phone books to the address of any
15 resident or business who registered with the City's Opt-Out Registry, prior to 30 days before the
16 date of delivery, indicating their desire not to receive delivery of yellow pages phone books.

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21 **SMC 6.255.100 Recovery Fee.**

22 A. A recovery fee is hereby imposed on the distribution of yellow pages phone books
23 within the City to be calculated as follows: Fourteen Cents (\$0.14) for each yellow pages phone
24 book distributed within the City plus One Hundred Forty-Eight Dollars (\$148.00) per ton of
25 yellow pages phone books distributed within the City. The recovery fee is intended to reflect the
26

1 cost to the City of administering the Opt-Out Registry and collecting and recycling yellow pages
2 phone books. The Director of Seattle Public Utilities may recommend adjustments to the
3 recovery fee as part of the development of adjustments to the solid waste rates.

4 B. Annually and as otherwise may be required by the Director, based on the quantities
5 reported under section 6.255.080, publishers shall report and remit payment of the recovery fees
6 imposed under this section to the Director. Payments shall be reported on forms prescribed by
7 the Director. The form shall be signed by a responsible officer or agent of the publisher. The
8 individual signing the form shall swear or affirm that the information in the form is true and
9 correct.
10

11 C. City revenue generated from the recovery fee imposed under this section shall be
12 deposited in the Solid Waste Fund.
13

14
15 **SMC 6.255.110 Distribution Requirements.**

16 A. Publishers shall prominently and conspicuously display on a portion of the front
17 cover of each yellow pages phone book distributed within the City the telephone number,
18 website and mailing address, in a format specified by the Director of Seattle Public Utilities, that
19 residents and businesses may use to notify the City's Opt-Out Registry of their desire not to
20 receive delivery of yellow pages phone books.
21

22 B. Publishers shall also prominently and conspicuously display on their websites a link
23 to the City's Opt-Out Registry together with information regarding the process for residents and
24 businesses to opt-out of receiving delivery of yellow pages phone books.
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1 C. Publishers shall retain the list of opt-out addresses from the City opt-out registry that
2 was used at the time of delivery. This list shall be made available to the Director upon request
3 for purposes of investigation or appeal.

4 D. The content of all yellow pages phone books, and any materials included therewith,
5 distributed within the City shall be recyclable.

6
7
8 **SMC 6.255.120 Duty of licensee.**

9 It shall be the duty of all persons licensed under this chapter to comply with all applicable
10 provisions of the new license code. Failure of any licensee to do so shall be a violation of this
11 chapter.

12
13 **SMC 6.255.130 Denial, Suspension or Revocation.**

14 The Director may deny, suspend or revoke any license issued under this chapter, in
15 accordance with the provisions of chapter 6.202. Failure of a licensee to comply with any
16 provision of this chapter is sufficient grounds for the denial, suspension or revocation of the
17 license. A license suspended or revoked may not be reinstated without prior payment of all
18 outstanding fees and penalties.
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THIS VERSION IS NOT ADOPTED

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2 **SMC 6.255.140 Civil Penalty.**

3 A. Any person who fails to comply with any provision of this chapter shall be subject to
4 a maximum civil penalty in the amount of One Hundred Twenty-Five Dollars (\$125.00) per
5 violation.

6 B. The City Attorney is authorized to initiate legal action to enforce this chapter as
7 deemed necessary and appropriate.
8

9
10 **SMC 6.255.150 Severability.**

11 Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be
12 declared unconstitutional or invalid for any reason, such decision shall not affect the validity of
13 the remaining portions of this chapter.
14

15
16 Section 2. The Director of Seattle Public Utilities shall assist the Director of Finance and
17 Administrative Services in the administration of this chapter. The Director of Finance and
18 Administrative Services shall have administrative responsibility for all typical and usual
19 licensing procedures for the yellow pages phone book distributor license, including but not
20 limited to maintaining a database of licensees and mailing applications for license renewals. The
21 Director of Seattle Public Utilities shall be responsible for the review and analysis of the annual
22 reports required by this chapter and for recommending that enforcement action be taken when
23 licensees fail to submit timely, complete and accurate annual reports or license applications or
24 otherwise fail to comply with the requirements of this chapter. The Director of Seattle Public
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1 Utilities is authorized to adopt, in accordance with the provisions of the Administrative Code,
2 rules relating to the administration of this chapter, including but not limited to reporting
3 requirements, the opt-out registry, and the recovery fee established under this chapter. By
4 December 31, 2010, the Director of Finance and Administrative Services and the Director of
5 Seattle Public Utilities shall develop an interdepartmental Memorandum of Agreement further
6 defining their respective roles in the administration of this chapter.
7

8
9 Section 3. The Director of Seattle Public Utilities is authorized to adopt, in accordance
10 with the provisions of the Administrative Code, rules specifying the criteria and procedures to
11 govern the process of granting exemptions under this section. A publisher may be exempted
12 from the requirements of SMC 6.255.090 (Opt-Out Registry), SMC 6.255.100 (Recovery Fee),
13 and SMC 6.255.110 A and B (Distribution Requirements) if the publisher can demonstrate to the
14 satisfaction of the Director of Seattle Public Utilities that it has established an effective program
15 to ensure delivery of yellow pages phone books to only those residents and businesses who
16 affirmatively request to receive delivery of yellow pages phone books. A publisher shall be
17 exempted from the requirements of SMC 6.255.090 (Opt-Out Registry), SMC 6.255.100
18 (Recovery Fee), and SMC 6.255.110 A and B (Distribution Requirements) if the publisher can
19 demonstrate to the satisfaction of the Director of Seattle Public Utilities that its distribution of
20 yellow pages phone books is limited to its organizational membership and others who
21 affirmatively request to receive its yellow pages phone books.
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1
2 Section 4. This ordinance shall take effect and be in force 30 days from and after its
3 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
4 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
5

6 Passed by the City Council the ____ day of _____, 2010, and
7 signed by me in open session in authentication of its passage this
8 ____ day of _____, 2010.
9

10
11
12 _____
13 President _____ of the City Council

14 Approved by me this ____ day of _____, 2010.

15
16 _____
17 Michael McGinn, Mayor

18 Filed by me this ____ day of _____, 2010.

19
20 _____
21 City Clerk

22 (Seal)

THIS VERSION IS NOT ADOPTED

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Meg Moorehead, 4-8929	

Legislation Title:

AN ORDINANCE relating to solid waste reduction; establishing license requirements for publishers of yellow pages phone books; establishing an opt-out registry and a recovery fee for yellow pages phone books, and amending the Seattle Municipal Code by creating a new Chapter 6.255.

Summary of the Legislation:

To advance City waste reduction goals, this ordinance establishes a new business license for yellow pages publishers. To obtain or renew a license, a publisher would pay a \$100 license fee, agree to use a City-sponsored opt-out list, report how many books were delivered in Seattle, and pay a recovery fee for each delivered book and for each ton of books delivered. City enforcement and penalties would apply if the opt-out list is not honored. Fees would entirely cover program costs.

Background:

An estimated 1.9 million yellow pages telephone books are delivered each year in Seattle comprising 2,300 tons of paper that must be recycled through the City's solid waste system. Many people now find businesses through the internet and no longer want paper phone books. Although yellow pages publishers have lists of customers who have requested not to receive the books ("opt-out" lists), many customers are not aware of those lists and there is no single opt-out list covering the 3 major yellow pages publishers. With the private opt-out lists, yellow pages are sometimes mistakenly delivered to customers who have opted-out, requiring each of those customers to follow up with publishers to ensure their opt-out request is honored. To advance City zero-waste goals, this ordinance addresses these issues by creating a single City-sponsored opt-out list, establishing a per-book recovery fee to pay City costs for an opt-out list, and setting a per-ton recovery fee for collection and recycling of yellow pages books. The opt-out list and recovery fees would be tied to a new business license for yellow pages publishers. City enforcement and penalties would apply if publishers do not honor the opt-out list.

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.)

THIS VERSION IS NOT ADOPTED

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2010 Appropriation	2011 Anticipated Appropriation
TOTAL				

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

Appropriations Notes:

No new appropriation is requested at this time. It is anticipated that an appropriation to implement this ordinance would be added during 2011-2012/budget approval. Because the number of publishers is small, no new appropriation likely will be needed for the Department of Executive Administration (DEA). Additional appropriation for Seattle Public Utilities' (SPU's) Solid Waste Division could be \$275,000 in 2011 and \$225,000 in 2012 to pay for public outreach regarding the new opt-out service, and a contract for developing and operating that service.

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2010 Revenue	2011 Revenue
TOTAL				

Revenue/Reimbursement Notes:

Fees would fund ordinance implementation, including a \$100 license fee to cover DEA costs, a recovery fee of 14 cents/book to cover SPU's costs for the opt-out service, and a recovery fee of \$148/ton to pay for yellow pages/collection and recycling. Because solid waste rates currently pay for yellow pages recycling, recovery fee revenue would offset \$340,000 to \$350,000 of solid waste rate revenue, helping to moderate rate increases proposed for 2011 and 2012.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2010 Positions	2010 FTE	2011 Positions*	2011 FTE*
TOTAL							

* 2010 positions and FTE are total 2010 position changes resulting from this legislation, not incremental changes. Therefore, under 2010, please be sure to include any continuing positions from 2009.

THIS VERSION IS NOT APPROVED

Position Notes:

No new positions are proposed.

Do positions sunset in the future?

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2010 Expenditures	2011 Anticipated Expenditures
TOTAL				

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

Spending/Cash Flow Notes:

What is the financial cost of not implementing the legislation?

If the legislation is not implemented, solid waste rates (and the customers who pay them) would continue to fund about \$340,000 in 2011 and \$350,000 in 2012 for yellow pages collection and recycling.

Does this legislation affect any departments besides the originating department?

Yes, it affects SPU and DEA.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

The no-action alternative would continue to rely on private opt-out systems that up to now have not achieved the level of waste reduction anticipated with the ordinance's opt-out and licensing system.

Is the legislation subject to public hearing requirements?

No.

Other Issues: (Include long-term implications of the legislation.)

List attachments to the fiscal note below:

THIS VERSION IS NOT ADOPTED

STATE OF WASHINGTON – KING COUNTY

--SS.

262240
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.

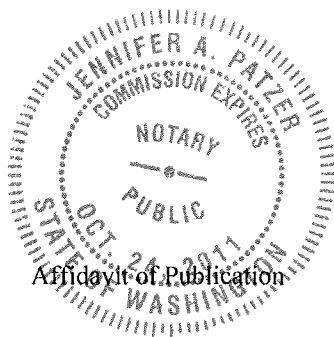
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123427 ORDINANCE

was published on

10/27/10

The amount of the fee charged for the foregoing publication is the sum of \$ 559.65, which amount has been paid in full.



[Handwritten signature]

Subscribed and sworn to before me on

10/27/10

[Handwritten signature]

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

City of Seattle

ORDINANCE 123427

AN ORDINANCE relating to solid waste reduction; establishing license requirements for publishers of yellow pages phone books; establishing an opt-out registry and a recovery fee for yellow pages phone books, and amending the Seattle Municipal Code by creating a new Chapter 6.255.

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 county and 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; and

WHEREAS, costs associated with the collection and disposal of yellow pages phone books in Seattle creates burdens on the City's solid waste disposal system; and

WHEREAS, to protect the privacy of the City's residents and businesses from unwanted intrusions, it is necessary to regulate the distribution of yellow pages phone books and provide an effective mechanism for the City's residents and businesses to opt-out of receiving yellow pages phone books; and

WHEREAS, to recover the costs of collection and disposal of yellow pages phone books and the costs of an Opt-Out Registry, it is necessary to impose a solid waste recovery fee on the distribution of yellow pages phone books; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective January 1, 2011, a new Chapter is added to Title 6, Subtitle IV, of the Seattle Municipal Code to read as follows:

Chapter 6.255 Distributors of Yellow Pages Phone Books.

SMC 6.255.010 Purpose.

The purpose of this chapter is to establish a yellow pages phone book distributor license for persons engaged in the business of distributing yellow pages phone books in the City, to require such licensees to provide the City with timely and accurate data on the quantities of yellow pages phone books they distribute in the City, to impose a recovery fee on the distribution of yellow pages phone books in the City, to establish a registry for residents and businesses to opt-out of receiving yellow pages phone books, and to require licensees to refrain from distributing yellow pages phone books to residents and businesses who have notified the registry that they do not want to receive yellow pages phone books.

SMC 6.255.025 Definitions.

For purposes of this chapter:

A. "Display advertising" means business advertising that includes text and/or various graphic elements exceeding the use of bold face type and color highlighting of the business name and telephone number.

B. "Distribution" means the unsolicited delivery of more than four tons annually of yellow pages phone books to the addresses of residents and businesses within the City, but does not include the delivery of yellow pages phone books by membership organizations to their members or to other residents or businesses requesting or expressly accepting delivery.

State of Washington, King County

C. "Membership organization" means an organization that is organized and operated primarily or exclusively for the purpose of providing services or benefits to a designated group of members (identified, for example, by having to pay membership dues or participating in membership events).

D. "Distributor" means a person or organization engaged in the business of arranging for the distribution of yellow pages phone books in the City; the term is intended to cover those persons or organizations who are primarily responsible for arranging for the publication and distribution of the yellow pages phone books and whose income is derived, at least in part, from the advertising contained in the yellow pages phone books. The term "distributor" is not intended to include those individuals whose role in the distribution of yellow pages phone books in the City is limited to driving the streets and making physical delivery of the yellow pages phone books.

E. "Yellow pages phone book" means a publication that consists primarily of a listing of business names and telephone numbers and contains display advertising for at least some of those businesses (commonly, but not necessarily, printed on yellow paper).

SMC 6.255.030 License - Required.

A. Commencing April 1, 2011, it shall be unlawful for any person to engage in business as a distributor of yellow pages phone books in the City without first obtaining an annual yellow pages phone book distributor license issued in accordance with the provisions of the new license code. The annual license is required regardless of where publication takes place or the location of the business's offices, storage or transshipment facilities.

B. The license required pursuant to this chapter is separate from and in addition to any license required by any other chapter of the Seattle Municipal Code, including but not limited to the business license required pursuant to chapter 5.55.

SMC 6.255.035 License - Required, Exceptions.

Local exchange companies whose distribution of phone books in the City is limited to only those phone books required by WAC 480-120-251 are not subject to the requirements of this chapter.

SMC 6.255.040 License - Expiration Date.

Yellow pages phone book distributor licenses expire annually on March 31st.

SMC 6.255.050 License - Application.

Application for the yellow pages phone book distributor license shall be on forms specified by the Director, and shall be accompanied by the license fee established by section 6.255.060, the annual report form required by section 6.255.080, and any recovery fees required by section 6.255.100.

SMC 6.255.060 License - Fee.

The annual license fee for the yellow pages phone book distributor license is One Hundred Dollars (\$100.00).

SMC 6.255.070 License - Not Transferable.

No license issued pursuant to this chapter shall be transferable unless in accordance with the provisions of chapter 6.202.

SMC 6.255.080 Annual Reports.

A. Every person submitting an application for a yellow pages phone book distributor license shall include with the application an accurately completed report form describing the quantities of yellow pages phone books the license applicant distributed within the City during the previous calendar year.

B. Every person submitting an application for renewal of an existing license under this chapter shall submit to the City before March 31st an accurately completed report form describing the quantities of yellow pages phone books the license applicant distributed within the City during the previous calendar year. The Director of Seattle Public Utilities shall specify the information to be included in the report form, which must include at a minimum the number and weight of yellow pages phone books distributed.

C. Annual report forms shall be provided by the City and distributed to all existing licensees in conjunction with applications for license renewals.

D. Failure to submit a complete and accurate annual report form shall be grounds for the denial of a license application.

E. Failure to submit a complete and accurate annual report form and the submission of a materially inaccurate annual report form are each violations of this chapter.

SMC 6.255.090 Opt-Out Registry.

A. The Director of Seattle Public Utilities is authorized and directed to establish the City's Opt-Out Registry to serve as a clearinghouse for residents and businesses to register and indicate their desire not to receive delivery of some or all yellow pages phone books. The registry shall maintain a list of the addresses of all residents and businesses who have indicated their desire not to receive delivery of yellow pages phone books. The registry shall be conveniently accessible to all residents and businesses and provide for notification by mail, telephone, email, and online registration. The addresses of those residents and businesses who have registered with the City's Opt-Out Registry indicating their desire not to receive delivery of yellow pages phone books shall remain on the registry until such time as the resident or business moves or notifies the registry of their desire to be removed.

B. The Director of Seattle Public Utilities or designee shall make available to all licensed distributors the addresses of all residents and businesses who have registered with the City's Opt-Out Registry indicating their desire not to receive delivery of yellow pages phone books. Licensed distributors shall provide the City's Opt-Out Registry with accurate and current contact information, including address and phone number, and shall provide the City's Opt-Out Registry on a routine basis with the addresses of all residents and businesses who have notified the distributor directly of their desire not to receive delivery of yellow pages phone books.

C. No more than 30 days prior to distributing any yellow pages phone books within the City, distributors shall download the addresses of those residents and businesses who have registered with the City's Opt-Out Registry indicating their desire not to receive delivery of yellow pages phone books.

D. Distributors shall not make delivery of yellow pages phone books to the address of any resident or business who registered with the City's Opt-Out Registry, prior to 30 days before the date of delivery, indicating their desire not to receive delivery of yellow pages phone books.

E. The Director of Seattle Public Utilities is directed to issue an annual report to the City Council in 2011, 2012, and 2013, evaluating the operation and impact of the City's Opt-Out Registry. The Director will identify needed improvements, concerns expressed by residents or businesses, and make recommendations for changing or enhancing the program.

SMC 6.255.100 Recovery Fee.

A. A recovery fee is hereby imposed on the distribution of yellow pages phone books within the City to be calculated as follows: Fourteen Cents (\$0.14) for each yellow pages phone book distributed within the City plus One Hundred Forty-Eight Dollars (\$148.00) per ton of yellow pages phone books distributed within the City. The recovery fee is intended to reflect the cost to the City of administering the Opt-Out Registry and collecting and recycling yellow pages phone books. The Director of Seattle Public Utilities may recommend adjustments to the recovery fee as part of the development of adjustments to the solid waste rates.

B. Annually and as otherwise may be required by the Director, based on the quantities reported under section 6.255.080, distributors shall report and remit payment of the recovery fees imposed under this section to the Director. Payments shall be reported on forms prescribed by the Director. The form shall be signed by a responsible officer or agent of the distributor. The individual signing the form shall swear or affirm that the information in the form is true and correct.

C. City revenue generated from the recovery fee imposed under this section shall be deposited in the Solid Waste Fund.

SMC 6.255.110 Distribution Requirements.

A. Distributors shall prominently and conspicuously display on a portion of the front cover of each yellow pages phone book distributed within the City the telephone number, website and mailing address, in a format specified by the Director of Seattle Public Utilities, that residents and businesses may use to notify the City's Opt-Out Registry of their desire not to receive delivery of yellow pages phone books.

B. Distributors shall also prominently and conspicuously display on their websites a link to the City's Opt-Out Registry together with information regarding the process for residents and businesses to opt-out of receiving delivery of yellow pages phone books.

C. Distributors shall retain the list of opt-out addresses from the City opt-out registry that was used at the time of delivery. This list shall be made available to the Director upon request for purposes of investigation or appeal.

D. The content of all yellow pages phone books, and any materials included therewith, distributed within the City shall be recyclable.

SMC 6.255.120 Duty of licensee.

It shall be the duty of all persons licensed under this chapter to comply with all applicable provisions of the new license code. Failure of any licensee to do so shall be a violation of this chapter.

SMC 6.255.130 Denial, Suspension or Revocation.

The Director may deny, suspend or revoke any license issued under this chapter, in accordance with the provisions of chapter 6.202. Failure of a licensee to comply with any provision of this chapter is sufficient grounds for the denial, suspension or revocation of the license. A license suspended or revoked may not be reinstated without prior payment of all outstanding fees and penalties.

SMC 6.255.140 Civil Penalty.

A. Any person who fails to comply with any provision of this chapter shall be subject to a maximum civil penalty in the amount of One Hundred Twenty-Five Dollars (\$125.00) per violation.

B. The City Attorney is authorized to initiate legal action to enforce this chapter as deemed necessary and appropriate.

SMC 6.255.150 Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter.

Section 2. The Director of Seattle Public Utilities shall assist the Director of Finance and Administrative Services in the administration of this chapter. The Director of Finance and Administrative Services shall have administrative responsibility for all typical and usual licensing procedures for the yellow pages phone book distributor license, including but not limited to maintaining a database of licensees and mailing applications for license renewals. The Director of Seattle Public Utilities shall be responsible for the review and analysis of the annual reports required by this chapter and for recommending that enforcement action be taken when licensees fail to submit timely, complete and accurate annual reports or license applications or otherwise fail to comply with the requirements of this chapter. The Director of Seattle Public Utilities is authorized to adopt, in accordance with the provisions of the Administrative Code, rules relating to the administration of this chapter, including but not limited to reporting requirements, the opt-out registry, and the recovery fee established under this chapter. By December 31, 2010, the Director of Finance and Administrative Services and the Director of Seattle Public Utilities shall develop an interdepartmental Memorandum of Agreement further defining their respective roles in the administration of this chapter.

Section 3. The Director of Seattle Public Utilities is authorized to adopt, in accordance with the provisions of the Administrative Code, rules specifying the criteria and procedures to govern the process of granting exemptions under this section. A distributor may be exempted from the requirements of SMC 6.255.090 (Opt-Out Registry), SMC 6.255.100 (Recovery Fee), and SMC 6.255.110 A and B (Distribution Requirements) if the distributor can demonstrate to the satisfaction of the Director of Seattle Public Utilities that it has established an effective program to ensure delivery of yellow pages phone books to only those residents and businesses who affirmatively request to receive delivery of yellow pages phone books.

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 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 5. 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 11th day of October, 2010, and signed by me in open session in authentication of its passage this 11th day of October, 2010.

President of the City Council

Approved by me this 14th day of October, 2010.

Michael McGinn, Mayor

Filed by me this 15th day of October, 2010.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily Journal of Commerce, October 27, 2010.
10/27(262240)