

Ordinance No. 122752

Council Bill No. 116251

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

CF No. _____

Date Introduced:	<u>6-23-08</u>	
Date 1st Referred:	To Environment, Emergency Mgmt & Utilities (EEMU)	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>6-1</u>	
Date Presented to Mayor:	Date Approved: <u>7-30-08</u>	
Date Returned to City Clerk:	Date Published: <u>8</u>	T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin
Councilmember

RC
SM

Committee Action:

(E)
(G)
Pass As Amended

RC-

JB-

RM - absent

7-28-08 Passed 6-1 (No: Drago, Excused: Licata, McIver)

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

LAW DEPARTMENT

Law Dept. Review

OMP Review

City Clerk Review

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Indexed



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

June 17, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

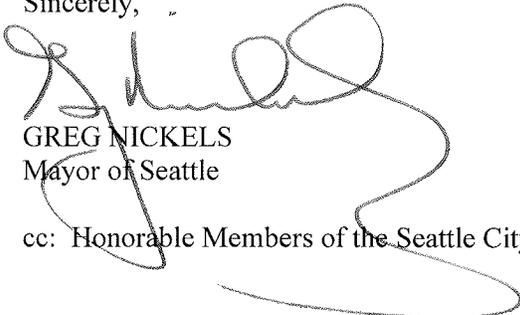
Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that encourages grocery shoppers to bring their own bags by creating a "Green Fee" of 20 cents for each paper or plastic disposable shopping bag that stores provide after January 1, 2009. The Green Fee, which will be collected by all grocery, drug, and convenience stores, is expected to substantially reduce Seattle's annual consumption of 360 million disposable shopping bags and help subsidize solid waste utility rates. It is also expected to reduce greenhouse gas emissions by more than 4,000 tons per year, the equivalent of taking 665 cars off the road.

This legislation arose from recommendations in the study of disposable shopping bags and expanded polystyrene food containers that was called for by Resolution 30990 last July. In that study Herrera Environmental Consultants compared paper and plastic shopping bags and found that while plastic bags presented greater litter concerns, production of paper bags actually imposed more of a burden on the environment in every other category of concern. As a result, the proposal set forth in this Bill seeks to reduce the use of both types of material and encourage the use of re-usable bags. Carefully targeted exceptions ensure that the fee applies only to bags used at the checkout counter, and retailers will be allowed to keep some of the fee to offset their administrative costs. In addition, Seattle Public Utilities (SPU) will do extensive public education and distribute free bags to Seattleites, with multiple bags provided for low-income families through City programs and other programs that provide services for the poor.

The Green Fee authorized by this legislation will make a significant improvement in our waste prevention efforts. Thank you for your consideration of this legislation. If you have questions, please contact Dick Lilly at 605-0706.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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

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

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

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

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

8 Section 1. Seattle Municipal Code Chapter 21.40 is amended by adding new Section
9 21.40.075 to read as follows:

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

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

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

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



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

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

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

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

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

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



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

6
7 H. If the Director determines that any amounts due under this section have been
8 substantially underpaid, as defined in Seattle Municipal Code Section 5.55.110 B, there shall be
9 added a penalty calculated in the same manner as the penalty imposed under Seattle Municipal
10 Code Section 5.55.110 B, as it now exists or as it may be amended. Nothing in this subsection
11 shall be construed to deem any fees required under this chapter to be a tax.

12
13 I. Any fee required by this section that is not paid within ninety (90) days after the due
14 date shall be subject to interest and calculated in the same manner as the interest imposed under
15 Seattle Municipal Code Section 5.55.090 B, as it now exists or as it may be amended. Nothing
16 in this subsection shall be construed to deem any fees required under this chapter to be a tax.

17
18 J. For purposes of this section, the following definitions apply.

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



1 2. “Convenience stores” means all retail stores falling under North American
2 Industry Classification System (NAICS) code 445120 (convenience stores) or NAICS code
3 447110 (gasoline stations with convenience stores).

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

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

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

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

19 Section 2. The purpose of the Green Fee established by this ordinance is to regulate the
20 generation of waste from disposable shopping bags by creating an economic incentive for
21 customers to use reusable shopping bags. To further promote the use of reusable shopping bags
22



1 and reduce the quantity of disposable shopping bags entering the City's waste stream, the
2 Director of Seattle Public Utilities is authorized to make available to the public free-of-charge
3 reusable shopping bags to the extent the director determines that such a program will
4 significantly reduce the costs associated with the recycling and disposal of disposable shopping
5 bags.

6
7 Section 3. Section 5.45.100 of the Seattle Municipal Code is amended as follows:

8 **5.45.100 Deductions.**

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

11 * * * * *

12
13 X. Amounts collected by grocery stores, drug stores, and convenience stores from
14 customers to pay the Green Fee imposed under SMC 21.40.075, including that portion of the fee
15 that the store is entitled to retain to offset costs incurred to implement and administer the Green
16 Fee.

17
18 Section 4. Section 21.36.922 of the Seattle Municipal Code is amended as follows:

19 **SMC 21.36.922 Civil infractions.**

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

23
24 B. The violation of or failure to comply with any of the following sections shall be a
25 civil infraction and subject as a Class 1 civil infraction under RCW 7.80.120 to a maximum
26



1 monetary penalty and default amount of Two Hundred Fifty Dollars (\$250.00), not including
2 statutory assessments:

3 SMC Section 21.36.420 (Unlawful dumping of solid waste)

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

6 * * * * *

7
8 Section 5. To carry out the purposes of this ordinance, the following new positions are
9 created in the Department of Executive Administration.

10 Department	11 Position Title	12 Position Status	13 Number of Positions
14 Department of Executive Administration	Admin Spec II- BU	Full Time	1
15 Department of Executive Administration	Tax Auditor	Full Time	1

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

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

20 Section 7. The provisions of this ordinance are declared to be separate and severable. If
21 a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having
22 run, finds any provision of this ordinance to be invalid or unenforceable as to any person or
23 circumstance, such offending provision shall, if feasible, be deemed to be modified to be within
24
25
26



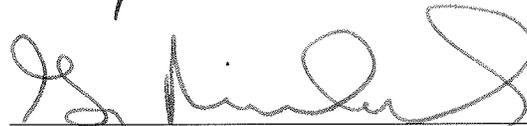
1 the limits of enforceability or validity. However, if the offending provision cannot be so
2 modified, it shall be null and void with respect to the particular person or circumstance, and all
3 other provisions of this ordinance in all other respects, and the offending provision with respect
4 to all other persons and all other circumstances, shall remain valid and enforceable.

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

8 Passed by the City Council the 28th day of July, 2008, and
9 signed by me in open session in authentication of its passage this
10 28th day of July, 2008.

11
12
13
14 
15 President _____ of the City Council

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

17
18 
19 Gregory J. Nickels, Mayor

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

21
22
23 
24 City Clerk

25 (Seal)

26 Attachment A: Green Fee Implementation Actions



ATTACHMENT A
GREEN FEE IMPLEMENTATION ACTIONS

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

- A. Conduct an intensive public education and outreach campaign starting at least 90 days before the effective date of the green fee. SPU shall incorporate within that campaign, messages about the importance of keeping reusable bags clean and properly containing meat to prevent leakage (report on outreach strategy due by September 30, 2008).
- B. Develop a proposal for minimizing impacts of the green fee on low-income customers and submit a written report to the Environment, Emergency Management, and Utilities Committee. The proposal should evaluate:
 - 1. Making free bags available at the checkout stand during 2009 for low-income customers who do not have enough reusable bags to carry their purchases.
 - 2. Options such as a City-issued punchcard available for 2009 that pre-pays the green fee for a certain number of shopping bags when low-income customers bring too few reusable bags.
 - 3. Methods to minimize the cost to food banks if the projected reduction in use of disposable bags from groceries, convenience stores and drug stores reduces the number of disposable shopping bags donated to food banks.
 - 4. Ways that SPU will work with low-income service providers including food banks, Seattle Housing Authority and other non-profit housing providers to distribute information and multiple reusable bags to low-income households (November 25, 2008).
- C. Develop business record-keeping and reporting requirements that are as simple as possible to reduce the administrative burden on businesses (December 1, 2008).
- D. Assess the additional cost to businesses of implementing the green fee and submit a written report (December 1, 2009).
- E. Evaluate the potential benefits and costs of extending the green fee to all retail businesses and submit a written report (December 1, 2009).
- F. Evaluate the effectiveness of measures taken to address impacts on low-income customers and submit a written report (December 1, 2009).



FISCAL NOTE FOR NON-CAPITAL PROJECTS

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

Legislation Title:

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

• **Summary of the Legislation:**

The proposed legislation establishes an advanced recovery fee (ARF), to be called a Green Fee, of 20 cents per bag on every disposable shopping bag of paper, plastic or other material that customers ask for or accept from grocery, drug or convenience stores, effective Jan. 1, 2009.

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

This legislation arose from Resolution 30990, which instructed SPU to study the environmental and litter problems of disposable plastic shopping bags and develop proposed solutions, including a possible ban on such bags. An SPU study by Herrera Environmental Consultants determined that the environmental impact of all kinds of disposable shopping bags was significant and that the impact of disposable paper bags, bag for bag, was overall four times worse than the impact of disposable plastic bags and worse in all impact categories except litter and marine litter. As a result, Mayor Greg Nickels and Council President Conlin recommended a Green Fee be charged on all bags, regardless of material, in order to discourage the use of throwaway bags and encourage shoppers to use reusable shopping bags, thus reducing the environmental impact and greenhouse gas production caused by the production or logging, manufacture, use, and disposal of these products.

• *Please check one of the following:*

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

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

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



Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
TOTAL				

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

Notes:

The Solid Waste division and the Department of Executive Administration (DEA) expect to request additional 2009-2010 Budget appropriation for work related to the Green Fee, to be financed from fee revenue, though amounts have not been finally determined. The request may include one-time money for a public information campaign, as well possible inspection staff to verify retailer compliance with the fee. It would also include approximately \$250,000 to DEA to administer the fee. DEA will provide database management, mailing, and Green Fee collection, which will be cost allocated to SPU. The terms of this arrangement will be specified in an MOA between the departments.

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

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
Solid Waste Fund-45010	SPU	Green Fee		\$3,370,000
TOTAL				\$3,370,000

Notes: The amount of revenue the Green Fee will generate is highly uncertain and depends fundamentally on how consumers react to the fee. The \$3.4 million projection above is based on the assumption that Seattle consumers react as vigorously as Irish consumers did to their bag tax and reduce disposable bag usage by 90 percent. See Attachment 1 to Fiscal Note for more on the revenue projection method and sensitivity analysis. Of this figure, approximately \$250,000 will be cost allocated to DEA for Green Fee administration, leaving about \$3.1 million available to subsidize Solid Waste rates and programs.

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



Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2008 Positions	2008 FTE	2009 Positions*	2009 FTE*
Admin Spec II , BU DEA		DEA 00100	FT	1	1	1	1
Tax Auditor, DEA		DEA 00100	FT	1	1	1	1
TOTAL				2	2	2	2

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

Notes:

The ordinance adds to DEA 1.0 FTE Administrative Specialist II, BU, and 1.0 FTE Tax Auditor to provide database management, mailing services, and Green Fee collection services. These positions are added in 2008 to allow for immediate hiring and ensure smooth start-up of the Green Fee in January, 2009. SPU may also need additional inspection staff to verify compliance with the Green Fee, but any further staff adds would be proposed as part of the 2009-2010 budget.

- **Do positions sunset in the future?** (If yes, identify sunset date):
No.

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

Fund Name & #	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
Solid Waste Fund (45010)	SPU	Other Operating (N400B)	\$1,150,000	TBD
General Fund	DEA	Revenue and Consumer Affairs	\$70,000	\$250,000

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

Notes:

In 2008, DEA will set up its Green Fee collection system and hire staff to start Jan. 1, 2009. SPU will reimburse DEA for these expenses. The estimate for these startup costs is \$70,000.

In 2008, SPU will purchase and distribute free or low cost reusable shopping bags to all Seattle residents with low-income families targeted to receive multiple bags. The Executive has committed up to \$1 million for this. Actual expenditure will depend on collaborative promotional arrangements reached with stores and groups of stores that will be affected by the Green Fee. SPU expects these stores will have a strong interest in co-promotion with SPU, as



many already are promoting the use of reusable bags. SPU will ensure that the SWF continues to meet its financial targets even with the unplanned expense of bag distribution. To do so may require reductions in spending in other areas of the SWF. Via a future city-wide supplemental budget ordinance, SPU may need to request additional budget authority and/or a transfer from one BCL to another within SWF to support the expense of the bag distribution. Additionally, \$150,000 is included in the 2008 SWF spending plan for public education activities in advance of the effective date of the Green Fee.

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

The current annual cost to the City of collection, recycling, disposal and litter cleanup for the 292 million disposable plastic bags distributed in the city each year is \$1,757,723, according to the consultant's study. The current annual cost to the City of collection, recycling, disposal and litter cleanup for the 68 million disposable paper bags distributed in the city each year is \$892,187, for a total of approximately \$2,649,910. Because of increasing disposable bag use, not implementing the Green Fee would result in continuation of these costs with no reduction and an additional cost to the City of \$100,000 per year on average (\$3,000,000 additional over the 30-year planning horizon).

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

A voluntary outreach approach to encourage re-usable bags was considered, but the consultant study found that such programs have limited effectiveness with maximum bag-use reductions of no more than 5 percent. A ban on plastic bags only was considered, but given the greater environmental impacts per bag of paper manufacturing, this approach would have been counterproductive.

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

No.

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

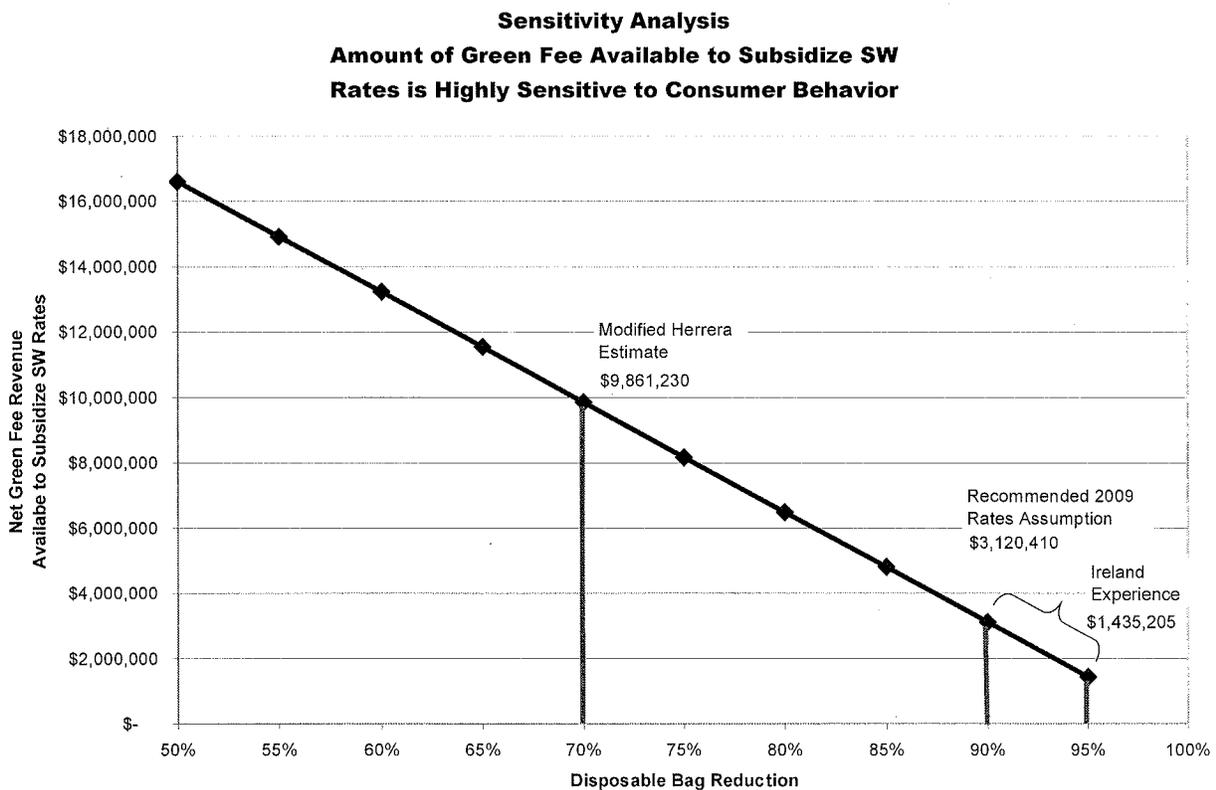
Please list attachments to the fiscal note below:

Attachment 1 – Green Fee Revenue Projections and Sensitivity Analysis



Green Fee Revenue Projections and Sensitivity Analysis

Seattle Public Utilities (SPU) and the Department of Finance (DOF) recommend that the Solid Waste Fund adopt conservative expectations for how much revenue the new Green Fee on disposable shopping bags will bring in for 2009. Based on the experience of the Irish government with its bag tax, the safest course to protect Solid Waste Fund financial performance is to set rates at a level that assumes approximately \$3 million in Green Fee revenue for 2009. Collections, however, may be significantly higher than this, especially in the first year as consumers alter their shopping habits. Consequently, as part of its forthcoming Solid Waste rates package, SPU will propose establishing a special account for Green Fee revenue in excess of \$3 million, with any overage used to reduce 2010 Solid Waste rates and/or fund new recycling and waste-reduction programs.



Seattle's Green Fee on disposable shopping bags has few precedents. This makes it difficult for City to estimate with any confidence how much revenue the fee will bring in to subsidize solid waste rates. In the current rate-setting environment, this uncertainty presents significant risks to Solid Waste Fund financial performance for 2009, since a shortfall could run in the millions and cause the Fund not to meet its financial policies. The Solid Waste Fund, with most of its work organized through outside collection contracts, has relatively little flexibility to reduce expenses when revenues decline.



The revenue estimate depends not only on uncertain estimates of current bag use in the City (provided by Herrera Environmental Consultants) but also fundamentally on consumer reaction to the new fee. Quite simply, the more vigorous the response Seattle residents have in switching to re-usable bags, the less revenue the City will collect. According to press reports, Irish consumers responded to that country's bag tax on plastic bags by switching to re-usable grocery bags more than 90 percent within the first few months that the tax was imposed.

Estimation Detail on Bag Fee

	Parameters Provided by Herrera	"Vigorous response" scenario per Ireland
# of bags used in Seattle per year (all retail)	360,000,000	360,000,000
Share of bags used in grocery, drug and convenience	73%	73%
# of bags used in grocery, drug & convenience	262,800,000	262,800,000
Disposable bag reduction by consumer switch	70%	95%
# of disposable bags used in grocery, drug & convenience	78,840,000	13,140,000
Bag fees generated @ \$0.20 per bag	\$ 15,768,000	\$ 2,628,000
Amount potentially remitted to City (75%)	\$ 11,826,000	\$ 1,971,000
% reduction for small exempt retailers	10%	10%
Amount remitted to City	\$ 10,643,400	\$ 1,773,900
% lost to slow start-up, evasion, other admin hurdles	5%	5%
Administrative Costs to DEA	\$250,000	\$250,000
Net Proceeds Available to Subsidize Solid Waste Rates	\$ 9,861,230	\$ 1,435,205

SOURCE: Department of Finance

Herrera Environmental Consultants estimated that SPU will realize about \$10 million in annual revenue from the Green Fee, which DOF has further reduced to account for the administrative costs of collecting the fee and a 5 percent avoidance rate. Each of these parameter choices is estimated, and so even assuming that the bag switch rate is correct, DOF believes this estimate could reasonably vary by as much as plus or minus 30 percent. Most importantly, Herrera's estimate included an assumption that the transition to re-usable bags would happen slowly, over a period of two years and ultimately arrive at a level of 70 percent. This scenario would generate 2009 revenues far higher than \$10 million. However, in recent weeks following the public announcement of Seattle's Green Fee proposal, retailers have begun to promote re-usable bags in their advertising, and anecdotal reports suggest that re-usable bag use at grocery stores has already increased markedly. Given this early response, the assumption of a vigorous and fast switch response – whether out of environmental concern or a desire to save money – appears plausible, and this assumption will better protect Solid Waste Fund financial performance.



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

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

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

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14 a Green Fee, for each disposable shopping bag provided to customers. It shall be a violation of
15 this section for any store that is subject to the requirements of this section to pay or otherwise
16 reimburse a customer for any portion of the Green Fee.

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

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

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

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

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

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

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

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

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

6
7 H. If the Director determines that any amounts due under this section have been
8 substantially underpaid, as defined in Seattle Municipal Code Section 5.55.110 B, there shall be
9 added a penalty calculated in the same manner as the penalty imposed under Seattle Municipal
10 Code Section 5.55.110 B, as it now exists or as it may be amended. Nothing in this subsection
11 shall be construed to deem any fees required under this chapter to be a tax.

12
13 I. Any fee required by this section that is not paid within ninety (90) days after the due
14 date shall be subject to interest and calculated in the same manner as the interest imposed under
15 Seattle Municipal Code Section 5.55.090 B, as it now exists or as it may be amended. Nothing
16 in this subsection shall be construed to deem any fees required under this chapter to be a tax.

17
18 J. For purposes of this section, the following definitions apply.

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

1 2. "Convenience stores" means all retail stores falling under North American
2 Industry Classification System (NAICS) code 445120 (convenience stores) or NAICS code
3 447110 (gasoline stations with convenience stores).

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

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

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

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

19 Section 2. The purpose of the Green Fee established by this ordinance is to regulate the
20 generation of waste from disposable shopping bags by creating an economic incentive for
21 customers to use reusable shopping bags. To further promote the use of reusable shopping bags
22

1 and reduce the quantity of disposable shopping bags entering the City's waste stream, the
2 Director of Seattle Public Utilities is authorized to make available to the public free-of-charge
3 reusable shopping bags to the extent the director determines that such a program will
4 significantly reduce the costs associated with the recycling and disposal of disposable shopping
5 bags.

6
7 Section 3. Section 5.45.100 of the Seattle Municipal Code is amended as follows:

8 **5.45.100 Deductions.**

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

11 * * * * *

12
13 X. Amounts collected by grocery stores, drug stores, and convenience stores from
14 customers to pay the Green Fee imposed under SMC 21.40.075, including that portion of the fee
15 that the store is entitled to retain to offset costs incurred to implement and administer the Green
16 Fee.

17
18 Section 4. Section 21.36.922 of the Seattle Municipal Code is amended as follows:

19 **SMC 21.36.922 Civil infractions.**

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

23
24 B. The violation of or failure to comply with any of the following sections shall be a
25 civil infraction and subject as a Class 1 civil infraction under RCW 7.80.120 to a maximum
26

1 monetary penalty and default amount of Two Hundred Fifty Dollars (\$250.00), not including
2 statutory assessments:

3 SMC Section 21.36.420 (Unlawful dumping of solid waste)

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

6 * * * * *

7
8 Section 5. To carry out the purposes of this ordinance, the following new positions are
9 created in the Department of Executive Administration.

10 Department	11 Position Title	12 Position Status	13 Number of Positions
14 Department of Executive Administration	15 Admin Spec II-BU	16 Full Time	17 1
18 Department of Executive Administration	19 Tax Auditor	20 Full Time	21 1

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

24 Section 6. The provisions of this ordinance are declared to be separate and severable. If
25 a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having
26 run, finds any provision of this ordinance to be invalid or unenforceable as to any person or
27 circumstance, such offending provision shall, if feasible, be deemed to be modified to be within
28 the limits of enforceability or validity. However, if the offending provision cannot be so
modified, it shall be null and void with respect to the particular person or circumstance, and all

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

3 Section 7. This ordinance shall take effect and be in force thirty (30) days from and after
4 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
5 after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

6 Passed by the City Council the ____ day of _____, 2008, and
7 signed by me in open session in authentication of its passage this
8 ____ day of _____, 2008.

9
10
11
12 _____
13 President _____ of the City Council

14 Approved by me this ____ day of _____, 2008.

15
16
17 _____
18 Gregory J. Nickels, Mayor

19 Filed by me this ____ day of _____, 2008.

20
21
22 _____
23 City Clerk

24 (Seal)

STATE OF WASHINGTON – KING COUNTY

--SS.

227508
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.

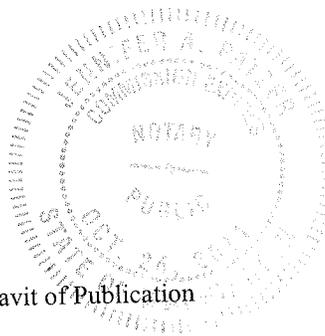
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122752 ORDINANCE

was published on

08/05/08

The amount of the fee charged for the foregoing publication is the sum of \$ 442.58, which amount has been paid in full.



Affidavit of Publication

[Signature]

Subscribed and sworn to before me on
08/05/08 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 122752

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

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

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

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

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

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

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

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

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

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

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

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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

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

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

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

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

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

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

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

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

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

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

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

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

I. Any fee required by this section that is not paid within ninety (90) days after the due date shall be subject to interest and calculated in the same manner as the interest imposed under Seattle Municipal Code Section 5.55.090 B, as it now exists or as it may be amended. Nothing in this subsection shall be construed to deem any fees required under this chapter to be a tax.

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

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

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

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

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

prescription drugs; or newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

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

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

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

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

5.45.100 Deductions.

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

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

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

SMC 21.36.922 Civil infractions.

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

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

SMC Section 21.36.420 (Unlawful dumping of solid waste)

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

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

Department -- Position Title -- Position Status -- Number of Positions

Department of Executive Administration
-- Admin Spec II-BU -- Full Time -- 1

Department of Executive Administration
-- Tax Auditor -- Full Time -- 1

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

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

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

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

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

28th day of July, 2008.

RICHARD CONLIN,

President of the City Council.

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

GREGORY J. NICKELS,

Mayor.

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

(Seal) JUDITH E. PIPPIN,

City Clerk.

Attachment A: Green Fee Implementation Actions

Publication ordered by JUDITH PIPPIN, City Clerk.

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

State of Washington County