#38
CB 117183

ORDINANCE _____

AN ORDINANCE relating to the solid waste system of Seattle Public Utilities; expressly exempting residential customers from the prohibition on hauling city waste; establishing a civil infraction for the unauthorized hauling of city waste; and amending Seattle Municipal Code Sections 21.36.030 and 21.36.922 accordingly.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 21.36.030 is amended to read as follows:

21.36.030 Unlawful hauling of City's Waste – Exceptions((~~.~~))

It is unlawful for anyone, except the following, to haul City's Waste through the streets in the City:

A. The University of Washington or its contractor;

B. Military establishments or their contractors;

C. The City's solid waste contractors;

D. Anyone authorized to collect solid waste in the City under RCW Chapter 81.77;

E. Business concerns, as to City's Waste originating within their own establishment; ((~~and~~))

F. The Seattle Housing Authority or its contractor; <u>and</u>

<u>G. Residential customers, as to City's Waste originating within their own residences;</u>

provided, however, that the exempted persons and organizations may be required to deposit such City's Waste at disposal, processing or recovery sites provided and/or designated by the Director of Seattle Public Utilities pursuant to Section 21.36.018.

BNS CITY CLERK

Section 2. Seattle Municipal Code Section 21.36.922 is amended to read as follows:

21.36.922 Civil infractions

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

B. The violation of or failure to comply with any of the following sections is a Class 1 civil infraction under RCW 7.80.120:

Section 21.36.415 (Discarding potentially dangerous litter), except that the maximum monetary penalty and default amount is $500, not including statutory assessments

Section 21.36.420 (Unlawful dumping of solid waste)

Section 21.36.030 (Unlawful hauling of City's Waste – Exceptions)

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

Section 21.36.086 (Compostable or recyclable food service ware required)

Section 21.36.089 (Concrete, bricks, and asphalt paving – recycling required)

* * *

2011 CITY CLERK

Section 3. 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 _____, 2011, and signed by me in open session in authentication of its passage this

_____ day of _____, 2011.

_____
President _____of the City Council

Approved by me this ____ day of _____, 2011.

_____
Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

_____
Monica Martinez Simmons, City Clerk

(Seal)

CITY CLERK

Form revised: August 9, 2010

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Gabriella Uhlar-Heffner/6-9772	Karen Grove/4-5805

Legislation Title: AN ORDINANCE relating to the solid waste system of Seattle Public Utilities; expressly exempting residential customers from the prohibition on hauling city waste; establishing a civil infraction for the unauthorized hauling of city waste; and amending Seattle Municipal Code Sections 21.36.030 and 21.36.922 accordingly.

Summary of the Legislation:

The proposed ordinance would give Seattle Public Utilities authority to impose a fine on companies that illegally haul "City's Waste", including construction and demolition (C&D) waste that is non-recyclable or cannot be beneficially used as designated by SPU Administrative Rule-DR-01-07. Beneficial use in this context means using unpainted and untreated construction wood waste processed into wood chips for fuel at a permitted pulp or paper mill or industrial boiler. The unlawful hauling of "City's Waste" would be classified as a Class 1 civil infraction under State law and be subject to a $250 fine. The penalty would apply to non-contracted parties hauling either garbage or recycling from businesses and C&D waste containing more than 10% non-recyclable or non-beneficially useable material in a recycling container. The ordinance also clarifies that residential customers in the city are permitted to self-haul waste generated at their own residences, just as business customers are permitted to do.

Background:

"City's Waste" is defined in the Seattle Municipal Code as all residential and nonresidential solid waste generated within the city, excluding "Unacceptable Waste", "Special Waste" and materials destined for recycling or beneficial use. By definition such loads must either be self-hauled by the generator or handled by the City's contracted carriers. Under the proposed ordinance, other private companies hauling the "City's Waste" would be committing a civil infraction and be subject to fines.

Over the past year, the City inspected recycling drop boxes at construction sites and businesses, mostly at the request of the City's contracted hauler of construction waste. Around 100 site inspections were conducted in 2010, mostly in reaction to complaints around the "illegal hauling" of recycling containers where the amount of non-recyclable material in the containers far exceeded the City's threshold of 10% non-recyclables in a recycling container for either municipal solid waste or C&D waste. City solid waste inspectors take a photograph of the container contents and a letter or E-mail message is sent to the hauler of the container. In the case of container service at a commercial business, the hauler of the "recycling" container is requested to stop collecting garbage at the property and have the customer contact the City contracted hauler for garbage service. In the case of a recycling container service at a construction site, the hauler is asked to: 1) label its recycling container with a list of acceptable materials for recycling; and 2) ask its customer to order a container from the City-contracted hauler for non-recyclable construction waste. While the hauler is given a deadline for taking

DHS CITY CLERK

corrective action, the ability to impose a fine in repeat cases of contaminated recycling containers at the same jobsite will be a useful follow-up tool used as a final resort.

The proposed ordinance will also revise the Seattle Municipal Code to make it conform with the current practice regarding residents hauling their own waste to City transfer stations.

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.)

_X_ **This legislation has financial implications.** (Please complete all relevant sections that follow.)
This legislation would require a small number of additional inspections, which would be carried out by existing staff. SPU is not requesting additional staffing or appropriation authority. A small amount of additional revenue could be received from fines that would be set at $250 per infraction. This is the allowable amount in state law (RCW 7.80.120) for a Class 1 civil infraction.

What is the financial cost of not implementing the legislation?
The City's contracted hauler of construction and demolition wastes for disposal sends SPU an average of 10 complaints a month regarding the "illegal hauling" of contaminated C&D recycling containers or containers outside of a business that contain municipal solid waste. This represents a significant loss of revenue to the City's contractor and to the City in the case of commercial municipal solid waste, hauled as "recycling" and not being billed as garbage. While the City's contractors have no guarantee of waste tonnage, the City is obligated to take corrective action of potential violations of its own hauling regulations.

Does this legislation affect any departments besides the originating department?
No

What are the possible alternatives to the legislation that could achieve the same or similar objectives?
In 2009- 2010 SPU carried out the illegal hauling program described above. Haulers receiving communications from the City will occasionally but not consistently respond that they are taking the corrective action which the City indicates should be done – removing a container or labeling it with a list of acceptable materials and educating the contractor about what will be accepted for recycling. In order to assure that the hauler will take corrective actions in all cases, an enforcement mechanism is needed by the City. Developing a formal process that has an enforcement mechanism (as a potential financial penalty) as a key component will make the illegal hauling inspections more effective.

Is the legislation subject to public hearing requirements:
No

Other Issues:

BAS CITY CLERK

This legislation will likely have the additional benefit of decreasing the amount of non-recyclable or non-beneficially used materials entering construction and demolition waste recycling facilities.

List attachments to the fiscal note below:
None

DRS CITY CLERK

City of Seattle
Office of the Mayor

May 17, 2011

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

Dear Council President Conlin:

Several weeks ago the Council approved legislation to help increase construction waste recycling. Attached is a companion measure which would give the Director of Seattle Public Utilities authority to impose fines of up to $250 per incident on companies that illegally haul waste materials within the City of Seattle. It would also clarify that residential customers may self-haul waste generated on their own properties, without being subject to these penalties.

The Seattle Municipal Code defines who can haul solid waste generated within the City of Seattle. These entities include Seattle's contracted collection companies as well as businesses hauling their own waste. Under existing law it is difficult to penalize haulers operating illegally. Under this proposed ordinance, companies illegally hauling the solid waste would be committing a civil infraction and subject to fines. The City inspects waste and recycling containers at construction sites and businesses and periodically finds containers being illegally serviced and recycling containers significantly contaminated with garbage and non-recyclable wastes. While there is follow-up correspondence with the service providers asking them to label their containers and to educate their customers, giving SPU the ability to impose a fines would greatly assist in getting corrective action.

Seattle continues to be a national leader in waste reduction and recycling and this legislation provides an important enforcement tool to help divert material away from landfills. Should you have any questions, please contact Hans Van Dusen at 684-4657.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 Fourth Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

Tel (206) 684-4000
Fax (206) 684-5360
TDD (206) 615-0476
mike.mcginn@seattle.gov

2011 CITY CLERK