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Meg Moorehead
LEG Bag ORD
December 12, 2011
Version #10

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2 **ORDINANCE** _____

3 AN ORDINANCE relating to the City of Seattle's solid waste system, regulating the distribution
4 of single-use plastic and biodegradable carryout bags and requiring retail establishments
5 to collect a pass-through charge from customers requesting recyclable paper carryout
bags, and amending Seattle Municipal Code Chapter 21.36.

6 WHEREAS, the Washington State Legislature in RCW 70.95.010(8)(a) established waste
7 reduction as the first priority for the collection, handling, and management of solid waste;
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 city and county governments "to assume primary responsibility for solid
13 waste management and to develop and implement aggressive and effective waste
reduction and 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
along with targets for waste reduction; and

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

19 WHEREAS, SPU has completed some of those studies, finding that the production, use and
20 disposal of plastic carryout bags have significant adverse impacts on the environment;
and

21 WHEREAS, it is the City's desire to conserve resources, reduce greenhouse gas (GHG)
22 emissions, waste, litter and marine litter and pollution and to protect the public health and
23 welfare; and

24 WHEREAS, there is a need to conserve energy and natural resources and control litter, and less
25 reliance on single-use carryout bags provided by retail establishments works toward those
26 goals; and

1 WHEREAS, plastic carryout bags are made of nonrenewable resources and plastic never
2 biodegrades and only breaks down into smaller and smaller particles which seep into
3 soils or are carried into rivers and lakes, Puget Sound and the world's oceans posing a
4 threat to animal life and the natural food chain; and

5 WHEREAS, even though single-use paper carryout bags are made from renewable resources and
6 are less of a litter and particularly marine litter problem than single-use plastic carryout
7 bags, they nevertheless require significant resources to manufacture, transport and recycle
8 or dispose of; and

9 WHEREAS, costs associated with the use, recycling and disposal of single-use paper and plastic
10 carryout bags in Seattle creates burdens on the City's solid waste disposal system,
11 including in the case of plastic carryout bags machine down time and contamination of
12 recycled paper at the City's materials recovery facility; and

13 WHEREAS, to prevent waste generation it is in the City's interest to discourage the use of
14 single-use, throw-away items of all types which can be accomplished through price
15 signals; and

16 WHEREAS, to reduce the use of plastic and paper carryout bags in the City, it is necessary to
17 regulate such use; and

18 WHEREAS, it is in the best interest of the health, safety and welfare of the people of the City
19 that regulation require a pass-through charge on the use of recyclable paper carryout bags
20 in order to encourage greater use of reusable bags, to reduce the cost of solid waste
21 disposal by the City, and to protect the environment; NOW, THEREFORE,

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

23 Section 1. Effective July 1, 2012, Seattle Municipal Code Chapter 21.36 is amended by
24 adding new Section 21.36.100 to read as follows:

25 **SMC 21.36.100 Single-use plastic and recyclable paper carryout bags**

26 A. No retail establishment in the City shall provide a single-use plastic carryout bag to
27 any customer.

28 B. Through December 31, 2016, no retail establishment in the City shall provide a paper
carryout bag with a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or

1 larger that is not a recyclable paper bag, and retail establishments shall collect a pass-through
2 charge of not less than five-cents for each recyclable paper carryout bag provided to customers.

3 It shall be a violation of this section for any retail establishment to pay or otherwise reimburse a
4 customer for any portion of the pass-through charge; provided that retail establishments may not
5 collect a pass-through charge from anyone with a voucher or electronic benefits card issued
6 under the Women, Infants and Children (WIC) or Temporary Assistance to Needy Families
7 (TANF) support programs, or the federal Supplemental Nutrition Assistance Program (SNAP,
8 also known as Basic Food), or the Washington State Food Assistance Program (FAP).
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10 C. All retail establishments shall indicate on the customer transaction receipt the number
11 of recyclable paper carryout bags provided and the total amount of the pass-through charge.

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

13 1. "Carryout bag" means a bag that is provided by a retail establishment at the
14 check stand, cash register, point of sale or other point of departure to a customer for the purpose
15 of transporting food or merchandise out of the establishment. Carryout bags do not include:
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17 (a) bags used by customers inside stores to package bulk items such as fruit, vegetables, nuts,
18 grains, candy, greeting cards, or small hardware items, such as nails and bolts, or to contain or
19 wrap frozen foods, meat or fish, whether prepackaged or not, or to contain or wrap flowers or
20 potted plants, or other items where dampness may be a problem, or to contain unwrapped
21 prepared foods or bakery goods, or to contain prescription drugs, or to safeguard public health
22 and safety during the transportation of prepared take-out foods and prepared liquids intended for
23 consumption away from the retail establishment; or (b) newspaper bags, door-hanger bags,
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1 laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as
2 garbage, pet waste, or yard waste bags.

3 2. "Pass-through charge" means a charge to be collected by retailers from their
4 customers when providing recyclable paper bags, and retained by retailers to offset the cost of
5 bags and other costs related to the pass-through charge.

6 3. "Recyclable paper bag" means a paper carryout bag that has a manufacturer's
7 stated capacity of one-eighth barrel (882 cubic inches) or larger and meets the following
8 requirements: (a) contains a minimum average of 40 percent post-consumer recycled materials,
9 and (b) displays the minimum percent of post-consumer content on the outside of the bag.

10 4. "Retail establishment" means any person, corporation, partnership, business
11 venture, public sports or entertainment facilities, government agency, street vendor or vendor at
12 public events or festivals or organizations that sell or provide merchandise, goods or materials
13 including, without limitation, clothing, food, beverages, household goods, or personal items of
14 any kind directly to a customer. Examples include but are not limited to department stores,
15 clothing stores, jewelry stores, grocery stores, pharmacies, home improvement stores, liquor
16 stores, convenience stores, gas stations, restaurants, food vending trucks, farmers markets and
17 temporary vendors of food and merchandise at street fairs and festivals. Food banks and other
18 food assistance programs are not considered to be retail establishments for the purposes of this
19 section.
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23 5. "Single-use plastic carryout bag" means any carryout bag made from plastic
24 or any material marketed or labeled as "biodegradable" or "compostable" that is neither intended
25 nor suitable for continuous reuse as a carryout bag or that is less than 2.25 mils thick.
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1 Section 2. Effective July 1, 2012, Section 21.36.922 of the Seattle Municipal Code is
2 amended as follows:

3 **SMC 21.36.922 Civil infractions**

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

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

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

11 Section 21.36.30 (Unlawful hauling of City's Waste – Exceptions)

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

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

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

15 Section 21.36.100 (Single-use plastic and recyclable paper checkout bags)

16 * * * * *

17 Section 3. It shall be a violation of this ordinance for any retail establishment to penalize,
18 discipline, or discriminate against any employee for performing any duty necessary to comply
19 with the ordinance.

20 Section 4. To further promote the use of reusable shopping bags and reduce the quantity
21 of single-use carryout bags entering the City's waste stream, the Director of Seattle Public
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1 Utilities is authorized to make reusable carryout bags available to the public at low cost or free-
2 of-charge, targeting such programs to reach low-income households to the greatest degree
3 possible.

4 Section 5. The Director of Seattle Public Utilities shall evaluate: (a) the financial impact
5 to retail establishments of implementing this ordinance, (b) the effectiveness of this ordinance in
6 reducing the number of single-use carryout bags used in the City, (c) the effectiveness of this
7 ordinance compared to other jurisdictions' efforts to reduce use of single-use carryout bags, and
8 (d) the waste- and litter-reduction benefits of the City's program. The evaluation shall be
9 presented in reports to the City Council that recommend any changes in the ban, pass-through
10 charges, or other provisions that are needed to improve effectiveness. At minimum, reports to the
11 City Council shall be submitted by January 1, 2013 and July 1, 2016. Based on SPU's reports,
12 the Council may take further action to extend the five-cent pass-through charge or implement
13 other actions to achieve City waste-reduction goals.
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16 Section 6. This ordinance shall take effect and be in force thirty days from and after its
17 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
18 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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20 Passed by the City Council the ____ day of _____, 2011, and
21 signed by me in open session in authentication of its passage this
22 ____ day of _____, 2011.
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25 _____
26 President _____ of the City Council
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Approved by me this ____ day of _____, 2011.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

City Clerk

(Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Meg Moorehead 684-8929	

Legislation Title:

AN ORDINANCE relating to the City of Seattle’s solid waste system, regulating the distribution of single-use plastic and biodegradable carryout bags and requiring retail establishments to collect a pass-through charge from customers requesting recyclable paper carryout bags, and amending Seattle Municipal Code Chapter 21.36.

Summary of the Legislation:

Effective July 1, 2012, the ordinance will ban the use of single-use plastic carryout (shopping) bags and “biodegradable” carryout bags at retail establishments. The ordinance also will require retail establishments to collect a pass-through charge of at least five cents for each single-use recyclable paper carryout bag of 882 cubic inches or larger that is provided to customers. Exceptions from the charge are provided for people receiving food assistance under state or federal programs, and the charge expires at the end of 2016 when adequate reduction in paper bag use is assumed to be achieved. The ordinance prohibits retailers from penalizing workers for performing any duty necessary to comply with the ordinance. The ordinance also allows the Director of Seattle Public Utilities (SPU) to provide reusable bags for promotion and to assist low-income households and the food banks that serve them. It also directs SPU to submit at least two reports to the Council regarding the effectiveness of the program in achieving its objectives; one report one year after the ordinance’s effective date, and another six months before the expiration of the paper bag pass-through charge.

Background:

The purpose of the ordinance is waste and litter prevention through reduced shopper use of single-use carryout bags at all types of retail stores. This will be accomplished through a ban on single-use plastic and biodegradable carryout bags because of their impact on litter and, particularly, marine litter, and a 5 cent per bag pass-through charge for larger recyclable paper carryout bags provided by any retail establishment. Food banks and other food assistance programs are not considered to be retail establishments for the purposes of this ordinance. Because the paper bag charge will somewhat suppress the use of recyclable paper bags in favor of reusable bags, the SPU director is authorized to promote reusable bags in connection with implementation of the ordinance. In addition, because the ordinance also requires that recyclable paper carryout bags have a specified post-consumer recycled paper content, there will be a small reduction in the use of virgin wood fiber in paper bag production.

Please check one of the following:

 X **This legislation does not have any financial implications.**

No additional City government appropriations or revenues are anticipated from this ordinance. Revenues from the paper bag charge would be kept by retailers. The ban and charge would be added to the work plan of existing solid waste inspectors so that no new City positions are needed at this time. Outreach

regarding the ban and providing some number of reusable bags for low income customers can be accommodated within the approved 2012 rates and budget. Because they are not required to be submitted until 2013 and beyond, it is not known whether SPU reports to the Council about the effectiveness of the program will require added rate revenue or budget authority in future years.

In terms of collection and processing cost, the net impact of the ordinance is uncertain. SPU estimates that its cost for collecting and processing plastic carryout bags (including litter clean-up) is about \$2.5 million a year. The ordinance could reduce City costs by that amount. Although some might argue that the number of paper bags in the City's waste stream (and the associated cost) will increase when plastic carryout bags are no longer available, others might conclude that a charge will reduce the number of paper bags because people will substitute reusable bags for paper ones. For example, fees for disposable carryout bags in Ireland reduced use of those bags by 90 percent. Experience in implementing the ordinance will ultimately show whether it results in a net collection and processing savings or cost.

Any change in the volume of bags in the City's waste stream (either increase or decrease) will ultimately be reflected in solid waste rates but again, at this time it is impossible to predict the amount of rate impact and whether it would be a decrease or increase. In any case, bags represent a small portion of the City's overall waste stream so that any rate impact likely would be small.

Costs for implementing Section 3, which states that it is a violation of the ordinance for any retail establishment to penalize employees for performing any duty necessary to comply with the ordinance, are unknown. Experience in implementing the ordinance will ultimately show the number of violations and associated costs.

As with any City fiscal note, this fiscal note is not intended to provide a comprehensive economic impact analysis of potential effects on the overall City economy, private sector jobs, retailer costs, or environmental quality. Public input on these issues during Council review of this ordinance may prompt the Council to request further information before making its decision.

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Meg Moorehead 684-8929	

Legislation Title:

AN ORDINANCE relating to the City of Seattle's solid waste system, regulating the distribution of single-use plastic and biodegradable carryout bags and requiring retail establishments to collect a five cent pass-through charge from customers requesting recyclable paper carryout bags, and amending Seattle Municipal Code Chapter 21.36.

Summary of the Legislation:

The ordinance will ban the use of single-use plastic carryout (shopping) bags and "biodegradable" carryout bags, and require retail establishments to collect a pass-through charge of at least five cents for each single-use recyclable paper carryout bag provided to customers, with exceptions for those receiving food assistance under state or federal programs. The ordinance also allows the Director of Seattle Public Utilities (SPU) to provide reusable bags for promotion and to assist low-income households and the food banks that serve them.

Background:

The purpose of the ordinance is waste and litter prevention through reduced shopper use of single-use carryout bags at all types of stores. This will be accomplished through a ban on single-use plastic and biodegradable carryout bags because of their impact on litter and, particularly, marine litter, and requirement that a 5 cent per bag pass-through charge be made for all recyclable paper carryout bags provided by any retail establishment. This will somewhat suppress the use of recyclable paper bags in favor of reusable bags which the SPU director is authorized to promote in connection with implementation of the ordinance. In addition, because the ordinance also requires that recyclable paper carryout bags have a specified post-consumer recycled paper content, there will be a small reduction in the use of virgin wood fiber in paper bag production.

Please check one of the following:

X **This legislation does not have any financial implications.**

No additional City appropriations or revenues are anticipated from this ordinance.

