

## City of Seattle Legislative Information Service

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### Council Bill Number: 116954

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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.

**Date introduced/referred:** Sep 7, 2010

**Date passed:** Oct 11, 2010

**Status:** Passed as amended

**Vote:** 8-1 (Opposed: Godden)

**Note:** 9/28/10 vote to hold one week passed by a vote of 5-4 (Opposed, Burgess, Conlin, Licata, O'Brien)

**Committee:** Seattle Public Utilities and Neighborhoods

**Sponsor:** O'BRIEN

**Index Terms:** LICENSES, FEES, PUBLIC-REGULATIONS, ADVERTISING

**References/Related Documents:** Related: [Resolution 30990](#)

**Fiscal Note:** [Fiscal Note to Council Bill 116954](#)

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### Text

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-} indicates end of text that has been amended out  
{+ indicates start of text that has been amended in  
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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.

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 \_\_\_\_ day of \_\_\_\_\_, 2010, and signed by me in open session in authentication of its passage this

\_\_\_\_ day of \_\_\_\_\_, 2010.

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President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2010.

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Michael McGinn, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2010.

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City Clerk

(Seal)

Mike O'Brien/SF

Yellow Pages Ord.

October 8, 2010

Version 14