

ORDINANCE _____

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

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

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

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

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

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

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

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

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

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

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

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

3 **SMC 6.255.010 Purpose.**

4 The purpose of this chapter is to establish a yellow pages phone book publisher license
5 for persons engaged in the business of publishing and distributing yellow pages phone books in
6 the City, to require such licensees to provide the City with timely and accurate data on the
7 quantities of yellow pages phone books they distribute in the City, to impose a recovery fee on
8 the distribution of yellow pages phone books in the City, to establish a registry for residents and
9 businesses to opt-out of receiving yellow pages phone books, and to require licensees to refrain
10 from distributing yellow pages phone books to residents and businesses who have notified the
11 registry that they do not want to receive yellow pages phone books.
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15 **SMC 6.250.025 Definitions.**

16 For purposes of this chapter:

17 A. "Publisher" means a person engaged in the business of publishing and arranging for
18 the distribution of yellow pages phone books in the City. The term "publisher" is not intended to
19 include those individuals whose role in the distribution of yellow pages phone books in the City
20 is limited to driving the streets and making physical delivery of the yellow pages phone books;
21 rather the term is intended to cover those persons who are primarily responsible for arranging for
22 the publication and distribution of the yellow pages phone books and whose income is derived, at
23 least in part, from the advertising contained in the yellow pages phone books.
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1 B. "Yellow pages phone book" means a publication that includes a listing of business
2 names and telephone numbers and contains display advertising for at least some of those
3 businesses (commonly, but not necessarily, printed on yellow paper).

4 C. "Display advertising" means business advertising that includes text and/or various
5 graphic elements exceeding the use of bold face type and color highlighting of the business name
6 and telephone number which does not otherwise alter the directory listing.

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8 **SMC 6.255.030 License – Required.**

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

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

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

22 Local exchange companies whose publication and distribution of phone books in the City
23 is limited to only those phone books required by WAC 480-120-251 are not subject to the
24 requirements of this chapter.
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1 **SMC 6.255.040 License – Expiration Date.**

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

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4 **SMC 6.255.050 License – Application.**

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

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11 **SMC 6.255.060 License – Fee.**

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

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

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

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19 **SMC 6.255.080 Annual Reports.**

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

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

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

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

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

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

3 B. The Director of Seattle Public Utilities shall make available to all licensed publishers
4 the addresses of all residents and businesses who have registered with the City's Opt-Out
5 Registry indicating their desire not to receive delivery of yellow pages phone books. Licensed
6 publishers shall provide the City's Opt-Out Registry with accurate and current contact
7 information, including address and phone number, and shall provide the City's Opt-Out Registry
8 on a routine basis with the addresses of all residents and businesses who have notified the
9 publisher directly of their desire not to receive delivery of yellow pages phone books.
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11 C. No more than 30 days prior to distributing any yellow pages phone books within the
12 City, publishers shall download the addresses of those residents and businesses who have
13 registered with the City's Opt-Out Registry indicating their desire not to receive delivery of
14 yellow pages phone books.
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16 D. Publishers shall not make delivery of yellow pages phone books to any resident or
17 business who registered with the City's Opt-Out Registry, prior to 30 days before the date of
18 delivery, indicating their desire not to receive delivery of yellow pages phone books.
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21 **SMC 6.255.100 Recovery Fee.**

22 A. A recovery fee of XXX is hereby imposed on the distribution of yellow pages phone
23 books within the City. The recovery fee is intended to reflect the cost to the City of collecting
24 and recycling unwanted yellow pages phone books and administering the Opt-Out Registry. The
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1 Director of Seattle Public Utilities may recommend adjustments to the recovery fee as part of the
2 development of adjustments to the solid waste rates.

3 B. Annually and as otherwise may be required by the Director, based on the quantities
4 reported under section 6.255.080, publishers shall report and remit payment of the recovery fees
5 imposed under this section to the Director. Payments shall be reported on forms prescribed by
6 the Director. The form shall be signed by a responsible officer or agent of the publisher. The
7 individual signing the form shall swear or affirm that the information in the form is true and
8 correct.
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10 C. City revenue generated from the recovery fee imposed under this section shall be
11 deposited in the Solid Waste Fund.
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13 **SMC 6.255.110 Distribution Requirements.**
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15 A. Publishers shall include on the front cover of each yellow pages phone book
16 distributed within the City a pre-paid postcard, in a format specified by the Director of Seattle
17 Public Utilities, addressed to the City's Opt-Out Registry that residents and businesses can use to
18 notify the Opt-Out Registry of their desire not to receive delivery of yellow pages phone books.

19 B. Publishers shall also prominently and conspicuously display on the front cover of
20 each yellow pages phone book distributed within the City the telephone number, website and
21 mailing address, in a format specified by the Director of Seattle Public Utilities, that residents
22 and businesses may call to notify the City's Opt-Out Registry of their desire not to receive
23 delivery of yellow pages phone books.
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1 C. Publishers shall also prominently and conspicuously display on their websites a link
2 to the City's Opt-Out Registry together with information regarding the process for residents and
3 businesses to opt-out of receiving delivery of yellow pages phone books.

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

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7 **SMC 6.255.120 Duty of licensee.**

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

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

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

3 Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be
4 declared unconstitutional or invalid for any reason, such decision shall not affect the validity of
5 the remaining portions of this chapter.
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7 Section 2. The Director of Seattle Public Utilities shall assist the Director of Executive
8 Administration in the administration of this chapter. The Director of Executive Administration
9 shall have administrative responsibility for all typical and usual licensing procedures for the
10 yellow pages phone book distributor license, including but not limited to maintaining a database
11 of licensees and mailing applications for license renewals. The Director of Seattle Public
12 Utilities shall be responsible for the review and analysis of the annual reports required by this
13 chapter and for recommending that enforcement action be taken when licensees fail to submit
14 timely, complete and accurate annual reports or license applications. The Director of Seattle
15 Public Utilities is authorized to adopt, in accordance with the provisions of the Administrative
16 Code, rules relating to the administration of this chapter, including but not limited to reporting
17 requirements, the opt-out registry, and the recovery fee established under this chapter. By
18 December 31, 2010, the Director of Executive Administration and the Director of Seattle Public
19 Utilities shall develop an interdepartmental Memorandum of Agreement further defining their
20 respective roles in the administration of this chapter.
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1 Section 3. Any publisher that can demonstrate to the satisfaction of the Director of
2 Seattle Public Utilities that it has established an effective program to ensure delivery of yellow
3 pages phone books to only those residents and businesses who affirmatively request to receive
4 delivery of yellow pages phone books may be exempted from the requirements of this chapter.
5 The Director of Seattle Public Utilities is authorized to adopt, in accordance with the provisions
6 of the Administrative Code, rules specifying the criteria and procedures to govern the process of
7 granting exemptions under this section.
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9 Section 4. This ordinance shall take effect and be in force 30 days from and after its
10 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
11 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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14 Passed by the City Council the ____ day of _____, 2010, and
15 signed by me in open session in authentication of its passage this
16 ____ day of _____, 2010.
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19 _____
20 President _____ of the City Council

21 Approved by me this ____ day of _____, 2010.
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23 _____
24 Michael McGinn, Mayor
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26 Filed by me this ____ day of _____, 2010.
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(Seal)

City Clerk