



Legislation Details (With Text)

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On agenda: 10/10/2023
Final Action: 10/13/2023 **Ord. No.** Ord 126921

Title: AN ORDINANCE relating to Seattle Public Utilities; updating the Solid Waste Code to establish an administrative enforcement process using notices of violation; adding a new Section 21.36.921 to the Seattle Municipal Code; and amending Sections 21.36.420, 21.36.920, and 21.36.922 of the Seattle Municipal Code.

Sponsors: Alex Pedersen

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Presentation, 3. Signed Ordinance 126921, 4. Affidavit of Publication

Date	Ver.	Action By	Action	Result
10/13/2023	1	City Clerk	attested by City Clerk	
10/13/2023	1	Mayor	returned	
10/13/2023	1	Mayor	Signed	
10/13/2023	1	City Clerk	submitted for Mayor's signature	
10/10/2023	1	City Council	passed	Pass
9/19/2023	1	Transportation and Seattle Public Utilities	pass	Pass
9/12/2023	1	City Council	referred	
9/7/2023	1	Council President's Office	sent for review	
8/30/2023	1	City Clerk	sent for review	
8/30/2023	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to Seattle Public Utilities; updating the Solid Waste Code to establish an administrative enforcement process using notices of violation; adding a new Section 21.36.921 to the Seattle Municipal Code; and amending Sections 21.36.420, 21.36.920, and 21.36.922 of the Seattle Municipal Code.

WHEREAS, Seattle Public Utilities fosters healthy people, a healthy environment, and a healthy economy by partnering with the community to equitably manage water, wastewater, and solid waste resources for the present and for future generations; and

WHEREAS, portions of the City's Solid Waste Code require revision to create an administrative enforcement process to deter illegal dumping on public property, including streets and alleys and rights-of-way such as sidewalks and planting strips; and

WHEREAS, it serves the public interest for the City to update provisions of its code to deter illegal dumping of solid waste and promote a healthy environment; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 21.36.420 of the Seattle Municipal Code, last amended by Ordinance 118396, is amended as follows:

21.36.420 Unlawful dumping of solid waste((:))

It is unlawful for anyone to dump, throw, or place solid waste on any property, public or private, or in any public place except((:)) as authorized by ((city)) ordinance, in a litter container, solid waste container, or ((in a)) bundle as described in this ((chapter)) Chapter 21.36, or upon or at a disposal site or interim solid waste handling site provided and/or designated by the Director of Seattle Public Utilities pursuant to Section 21.36.018. Anyone who dumps, throws, or places solid waste in violation of this ((section)) Section 21.36.420 shall remove and properly dispose of it. This section does not apply to dumping, throwing, or placing litter in the amount of ((one (1))) 1 cubic foot or less ((which)) and that does not contain hazardous substances.

Section 2. Section 21.36.920 of the Seattle Municipal Code, last amended by Ordinance 123633, is amended as follows:

21.36.920 Violation - Penalty((:))

A. ((Except for a violation designated by this chapter as a civil infraction or as provided by subsection B of this section, violation or failure to comply with any provision of this chapter is a gross misdemeanor punishable as provided in Section 12A.02.070.)) Civil infractions designated in Section 21.36.922 shall be penalized as provided in chapter 7.80 RCW.

B. Violations of Section 21.36.420 by volume - Criminal. Violations involving an amount of solid waste

greater than ~~((one (1)))~~ 1 cubic foot but less than ~~((one (1)))~~ 1 cubic yard is a misdemeanor punishable as provided in Section 12A.02.070. For such a violation, the defendant shall also pay a litter cleanup restitution payment, which is the greater of twice the actual cost of removing and properly disposing of the litter or ~~((Fifty Dollars (\$50.00)))~~ \$50 per cubic foot of litter. Violation of Section 21.36.420 involving an amount of solid waste of ~~((one (1)))~~ 1 cubic yard or more is a gross misdemeanor punishable as provided in Section 12A.02.070. For such a violation, the defendant shall also pay a litter cleanup restitution payment, which is the greater of twice the actual cost of removing and properly disposing of the litter or ~~((One Hundred Dollars (\$100.00)))~~ \$100 per cubic foot of litter. The court shall distribute the litter cleanup restitution payment according to RCW ~~((70.95.240))~~ 70A.205.195. The court may, in addition to the litter cleanup restitution payment, order the defendant to remove and properly dispose of the litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this ~~((section))~~ Section 21.36.920 if the defendant removes and properly disposes of the litter.

C. Violations of Section 21.36.420 may be enforced based on the weight of the solid waste through a notice of violation. Violations that are enforced based on the weight of the solid waste are subject to a fine as determined by the Director of Seattle Public Utilities in accordance with the following schedule:

Description	Fine
<u>Base fee: No previous similar violations</u>	<u>\$100</u>
<u>Base fee: One or more previous similar violations within the past 12 months .</u>	<u>\$500</u>
<u>Up to 400 pounds</u>	<u>\$200 + base fee and cleanup costs</u>
<u>400 pounds up to 1000 pounds</u>	<u>\$500 + base fee and cleanup costs</u>
<u>1000 pounds up to 3 tons</u>	<u>\$1500 + base fee and cleanup costs</u>

Violations as to the weight of the dumped solid waste may be enforced by a notice of violation, as described in Section 21.36.921. In addition to the fine, the defendant shall also pay a litter cleanup payment, which is the actual cost of removing and properly disposing of the litter.

~~((C.))~~ D. ~~((Alternatively, except for a violation designated by this chapter as a civil infraction or as provided in subsection B of this section, the violation of or failure to comply with any provision of this chapter))~~ Any violation of this Chapter 21.36 other than those identified in subsections 21.36.920.A, 21.36.920.B, and 21.36.920.C shall be subject to a civil penalty in the amount of ~~((Fifty Dollars (\$50.00)))~~ \$50 for each violation and the amount of ~~((Fifty Dollars (\$50.00)))~~ \$50 per day for each additional day of a continuing violation. To collect the penalty imposed by this subsection 21.36.920.D, the City shall file a civil action in the Seattle Municipal Court.

~~((D.))~~ E. The penalties provided in this ~~((section))~~ Section 21.36.920 are in addition to any other sanction or remedial procedure ~~((which))~~ that may be available. The criminal or civil penalty, and the limitation on the amount of the penalty, does not ~~((including))~~ include any amounts that may be recovered for reimbursement. Sums recovered for reimbursement shall be in addition to the penalty.

Section 3. A new Section 21.36.921 is added to the Seattle Municipal Code as follows:

21.36.921 Investigation and notice of violation - Right to appeal

A. The Director of Seattle Public Utilities may investigate any property where the Director reasonably believes there is a failure to comply with the requirements of Section 21.36.420.

B. The Director of Seattle Public Utilities is authorized to issue a notice of violation to a responsible party if, after investigation, the Director determines that a violation of Section 21.36.420 based on the weight of the solid waste has occurred or is occurring. The notice of violation shall include: a description of the violation; the date of the notice; what corrective action is necessary to comply with this Chapter 21.36; and shall set a reasonable time by which any corrective action must be taken or any penalties must be paid.

C. The notice of violation may be amended at any time to correct clerical errors, add citations of authority, or modify required corrective action.

D. The Director of Seattle Public Utilities shall serve the notice upon a responsible party either by personal service, by first-class mail, or by certified mail return receipt requested, to the party's last known

address. If by first-class mail, service shall be deemed complete upon the third day following the day upon which the notice is placed in the mail, or if the third day falls on a Saturday, Sunday, or legal holiday, then on the next day following that is not a Saturday, Sunday, or legal holiday. If the address of the responsible party cannot be found after a reasonable search, the notice may be served by posting a copy of the notice at a conspicuous place on the property. Alternatively, if the whereabouts of the responsible party is unknown and cannot be ascertained in the exercise of reasonable diligence, and the Director of Seattle Public Utilities makes an affidavit to that effect, then service may be accomplished by publishing the notice once each week for two consecutive weeks in the City official newspaper.

E. Nothing in this Section 21.36.921 requires the Director of Seattle Public Utilities to issue a notice of violation prior to the initiation of enforcement action by the City Attorney's Office.

F. Appeal to Director

1. A Notice of Violation, Director's order, or invoice issued pursuant to this subtitle shall be final and not subject to further appeal unless an aggrieved party requests in writing a review by the Director, or designee, within ten business days after service of the Notice of Violation, order or invoice. When the last day of the period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

2. Following receipt of a request for review, the Director, or designee, shall notify the requesting party, any persons served the Notice of Violation, order or invoice, and any person who has requested notice of the review, that the request for review has been received by the Director. Additional information for consideration as part of the review shall be submitted to the Director no later than 15 business days after the written request for a review is mailed.

3. The Director, or designee, will review the basis for issuance of the Notice of Violation, order, or invoice and all information received by the deadline for submission of additional information for consideration as part of the review. The Director may request clarification of information received and a site

visit. After the review is completed, the Director may:

- a. Sustain the Notice of Violation, order, or invoice;
- b. Withdraw the Notice of Violation, order, or invoice;
- c. Continue the review to a date certain for receipt of additional information; or
- d. Modify or amend the Notice of Violation, order, or invoice.

4. The Director's decision shall become final and is not subject to further administrative appeal.

G. If a responsible party fails to correct a violation or pay a penalty as required by a Notice of Violation, or fails to comply with a Director's order, the Director may refer the matter to the City Attorney's Office for civil or criminal enforcement action. Civil actions to enforce a notice of violation shall be exclusively in Seattle Municipal Court.

H. Because civil actions to enforce this Subtitle III are brought exclusively in Seattle Municipal Court, notices of violation, orders, and all other actions made under this Subtitle III are not subject to judicial review under chapter 36.70C RCW. Instead, final decisions of the Seattle Municipal Court on enforcement actions authorized by this Subtitle III may be appealed under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

Section 4. Section 21.36.922 of the Seattle Municipal Code, last amended by Ordinance 124582, is amended as follows:

21.36.922 Civil infractions

A. The violation of or failure to comply with any section of this ~~((chapter))~~ Chapter 21.36 identified in this ~~((section))~~ Section 21.36.922 is designated as a civil infraction and shall be processed as contemplated by chapter 7.80 RCW ~~((Chapter 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 21.36.030 (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 (Construction and demolition waste recycling required)

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

C. The violation of or failure to comply with any of the following sections shall be a civil infraction and subject as a Class 3 civil infraction under RCW 7.80.120 to a maximum monetary penalty and default amount of \$50, not including statutory assessments:

Section 21.36.044 (Containers required - Nonresidential)

Section 21.36.410 (Littering)

Section 21.36.425 (Accumulation of solid waste)

Section 21.36.430 (Unlawful use of City litter receptacles)

Section 21.36.440 (Unlawful use of solid waste container on private property)

D. For purposes of RCW 7.80.040, the "enforcement officers" authorized to enforce the provisions of the Solid Waste Code are: (1) the Director of Seattle Public Utilities; (2) authorized representatives, assistants or designees of the Director of Seattle Public Utilities; and (3) commissioned officers of the Seattle Police Department and persons issued nonuniformed special police officer commissions by the Chief of Police with authority to enforce such provisions.

E. An action for a civil infraction shall be processed in the manner contemplated by chapter 7.80 RCW ((~~Chapter 7.80~~)).

F. The City Attorney is authorized for and on behalf of The City of Seattle to initiate legal action to enforce this ((~~chapter~~)) Chapter 21.36 as deemed necessary and appropriate.

Section 5. This ordinance shall take effect and be in force 30 days 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 _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)