

File No. 220053

Committee Item No. 3

Board Item No. 25

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date Feb 22, 2022

Board of Supervisors Meeting

Date March 1, 2022

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Completed by: Victor Young Date Feb 18, 2022

Completed by: _____ Date _____

1 [Initiative Ordinance - Health Code - Refuse Collection and Disposal Ordinance]

2

3 **Motion ordering submitted to the voters at an election to be held on June 7, 2022, an**
4 **Ordinance amending the Refuse Collection and Disposal Ordinance (“the Refuse**
5 **Ordinance”) to restructure the refuse rate-setting process to replace hearings before**
6 **the Department of Public Works with a requirement that the Controller, as Refuse Rate**
7 **Administrator, regularly monitor the rates and appear before the Refuse Rate Board to**
8 **recommend rate adjustments; establish an appointed Ratepayer Representative to**
9 **replace the Controller on the Refuse Rate Board; authorize the Refuse Rate Board to**
10 **set commercial rates; require a competitive process for all existing and future refuse**
11 **collection permits; authorize the Board of Supervisors on recommendation of the**
12 **Refuse Rate Administrator, Refuse Rate Board, and Mayor to amend the Refuse**
13 **Ordinance by eight-vote supermajority; and fully codifying the Refuse Ordinance in the**
14 **Health Code.**

15

16 MOVED, That the Board of Supervisors hereby submits the following ordinance to the
17 voters of the City and County of San Francisco, at an election to be held on June 7, 2022.

18

19 **Ordinance amending the Refuse Collection and Disposal Ordinance (“the Refuse**
20 **Ordinance”) to restructure the refuse rate-setting process to replace hearings before**
21 **the Department of Public Works with a requirement that the Controller, as Refuse Rate**
22 **Administrator, regularly monitor the rates and appear before the Refuse Rate Board to**
23 **recommend rate adjustments; establish an appointed Ratepayer Representative to**
24 **replace the Controller on the Refuse Rate Board; authorize the Refuse Rate Board to**
25 **set commercial rates; require a competitive process for all existing and future refuse**

1 collection permits; authorize the Board of Supervisors on recommendation of the
2 Refuse Rate Administrator, Refuse Rate Board, and Mayor to amend the Refuse
3 Ordinance by eight-vote supermajority; and fully codifying the Refuse Ordinance in the
4 Health Code.

5 NOTE: **Unchanged Code text and uncodified text** are in plain font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in ~~italics Times New Roman font~~.
8 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
9 parts of tables.

8

9 Be it ordained by the People of the City and County of San Francisco:

10

11 Section 1. Title.

12 This Ordinance shall be known as “The Refuse Rate Reform Ordinance Of 2022.”

13

14 Section 2. Background and Purpose.

15 (a) The City regulates the collection and disposal of refuse via the Refuse Collection
16 and Disposal Ordinance, an uncodified ordinance that the voters adopted in 1932 and have
17 not amended since 1960. Starting in 2020, a series of public reports revealed that the City’s
18 refuse collection system was in need of reform, as evidenced by Recology, the City’s sole
19 permittee, overcharging San Francisco residents and businesses by almost \$100 million. The
20 City corrected this error, but even afterwards continued to have significant concerns that
21 Recology’s expenses may have been inflated and had difficulty ascertaining answers because
22 of the lack of transparency in the current regulatory structure.

23 (b) The purpose of this ordinance is to reform and modernize the City’s process for
24 setting residential refuse rates to be more fair, transparent, and accountable; and to help the
25 City continue to pursue its Zero-Waste goals. To achieve these multiple purposes, the People

1 of the City and County of San Francisco hereby establish the following principles to govern
2 this process:

- 3 • Refuse service shall be cost-effective and meet established service standards and
4 environmental goals;
- 5 • The refuse rate structure shall encourage rate stability and ensure rates are
6 reasonable and fair;
- 7 • The process used to establish and monitor rates shall be transparent, accountable,
8 and publicly accessible;
- 9 • The work of the Refuse Rate Board and the City Controller, who shall act as Refuse
10 Rate Administrator, shall be conducted in line with high professional ethical
11 standards.

12 (c) This ordinance also directs the City to develop procedures to terminate and re-
13 issue refuse collection permits following an open and competitive process; and authorizes the
14 Board of Supervisors, on recommendation of the Refuse Rate Administrator and the Refuse
15 Rate Board and the Mayor, to update the Refuse Collection and Disposal Ordinance, as
16 codified in Health Code Section 290 by this ordinance, from time to time, so that the
17 Ordinance can continue to meet the above standards well into the future.

18
19 Section 3. Article 6 of the Health Code is hereby amended by revising Section 290, to
20 read as follows:

21 **SEC. 290. REFUSE COLLECTION AND DISPOSAL ORDINANCE NO. 17.083.**

22 This Section 290 (encompassing Sections 290.1 through 290.17, collectively referred to as
23 “Section 290”) is enacted to set forth portions of the Refuse Collection and Disposal Ordinance
24 No. 17.083 (adopted as Proposition 6, November 8, 1932, and reprinted in the Appendix A to the
25 Administrative Code)of the San Francisco City Charter, as it has been amended via Ordinance No. 16

1 (November 5, 1946), Proposition C (June 8, 1954), and Proposition F (June 7, 1960), and as it may be
2 further amended from time to time.~~heretofore has been adopted to read as follows~~

3 **"Section 290.1.** The term "refuse" as used in this ~~ordinance~~Section 290 shall ~~be taken to~~
4 mean all waste and discarded materials from dwelling places, households, apartment houses,
5 stores, office buildings, restaurants, hotels, institutions, and all commercial establishments,
6 including waste or discarded food, animal and vegetable matter from all kitchens thereof,
7 waste paper, cans, glass, ashes, and boxes and cutting from trees, lawns, and gardens.
8 Refuse ~~as used herein~~includes recyclables, compostables, and trash, but does not include debris
9 and waste construction materials, ~~(including; wood, brick, plaster, glass, cement, and wire; and~~
10 ~~other ferrous materials; derived from the construction of or the partial or total demolition of~~
11 ~~buildings or other structures)~~ or hazardous waste, as those terms are defined in Chapter 19 of the
12 Environment Code as it may be amended from time to time.

13 **"Section 290.2.** It shall be unlawful for any person, firm, or corporation to dispose of
14 refuse ~~as defined in this ordinance~~ except as ~~herein~~ provided in this Section 290, ~~save that the~~
15 ~~provisions of this ordinance shall not include refuse which may be incinerated by an owner of a~~
16 ~~building for himself or for his tenants on the premises where produced; provided, however, that such~~
17 ~~incineration shall be subject to inspection and control by the Director of Public Health and the Fire~~
18 ~~Department.~~ Failure of any householder producing refuse to subscribe to and pay for refuse
19 collection, unless such householder is a tenant for whom refuse collection service is provided
20 by ~~his~~their landlord, shall be prima facie evidence that such householder is disposing of refuse
21 in violation of this Section 290~~ordinance.~~

22 **"Section 290.3.** Refuse ~~consisting of waste or discarded food, animal and vegetable~~
23 ~~matter, discharged containers, of food, animal and vegetable matter and ashes~~ shall be collected and
24 placed in ~~suitable metal cans of such capacity as the Director of Public Works~~secure containers in a
25 manner as may be prescribed by law ~~(but not to exceed 32 gallons in the case of a can serving one~~

1 ~~single family dwelling unit) by the producer or landlord who by reason of contract or lease with an~~
2 ~~occupant is obligated to care for such refuse, for collection by a refuse collector to be disposed of~~
3 ~~as provided in this Section 290as herein provided. Waste paper and boxes and other refuse materials~~
4 ~~not subject to putrefaction or decay, and cuttings from trees, lawns and gardens may be placed in any~~
5 ~~suitable container and delivered by the producer or landlord, who by reason of contract or lease with~~
6 ~~the occupant is obligated to care for such refuse and deliver same to a refuse collector, to be disposed~~
7 ~~as herein provided; provided, however, that it shall be optional with the producer or landlord to~~
8 deliver waste paper or other refuse having a commercial value to a refuse collector, and the
9 producer or landlord may dispose of the same in any manner ~~hethey~~ may see fit in accordance
10 with law. ~~(Refuse which under the provisions hereof must be deposited in a metal can of suitable~~
11 ~~capacity shall be removed daily from the place where the same is created at a frequency in~~
12 ~~accordance with law.)~~

13 **"Section 290.4.** (a) It shall be unlawful for any person, firm, or corporation, other than
14 a refuse collector licensed by the Director of Public Health as in the ordinance provided in this
15 Section 290, to transport through the streets of the City and County of San Francisco any
16 refuse as in this ordinance defined, or to collect or to dispose of the same, except waste paper,
17 or other refuse having a commercial value." It is provided, however, that a license for a refuse
18 collector, as provided in Section 290.8, shall be distinguished from a permit to operate in the City and
19 County of San Francisco on a certain designated route, under this Section 290.4.

20 (b) It shall be unlawful for any person, firm or corporation to transport through the streets of
21 the City and County of San Francisco any refuse, or to collect or dispose of the same, without first
22 obtaining a permit from the Department of Public Health.

23 (c) Ordinance No. 17-083 divided the City and County of San Francisco into routes for the
24 collection of refuse, as designated on a map of the City, each route to include only the side of the street
25 or streets bounding each route as designated by a number on said map, said routes being numbered 1

1 to 97, inclusive. Said map and said routes were marked Exhibit A and are attached to and were made a
2 part of Ordinance No. 17-083, and permits for said routes were originally issued under the authority of
3 Ordinance No. 17-083. The Department of Public Health shall, consistent with this Section 290.4,
4 develop a process for terminating the permits for the 97 routes by operation of law, soliciting proposals
5 from interested applicants (including but not limited to the existing permitted refuse collectors), and
6 issuing new route permits. By no later than November 1, 2022, the Department of Public Health shall
7 advertise on its website the opportunity to apply for said permits and shall provide information
8 regarding the procedures that shall govern the review of any applications received. Applications shall
9 be submitted to the Director of Public Health, and shall include the name of the applicant; any of the
10 particular routes that the applicant proposes to serve; a statement that the applicant will abide by all
11 the provisions of this Section 290 and will not charge a greater rate for the collection and disposition
12 of said refuse than that fixed in or pursuant to this Section 290; evidence regarding the applicant's
13 ability to minimize disruptions in service (a certification that the applicant has appointed one or more
14 employee representatives to its governing board may suffice to make this showing); and any other
15 information that the Director of Public Health may reasonably require to ensure that refuse service
16 remains cost-effective, consistent with established service standards and environmental goals, and
17 promotes stability and fairness in the rates.

18 (d) Following review of the applications, and subject to any required environmental review and
19 approval by the Health Commission, the Director of Public Health shall issue permits no later than
20 April 1, 2023, to take effect on July 1, 2023. The existing permits for the 97 routes shall cease to be
21 effective as of July 1, 2023, and shall be superseded by the new route permits, notwithstanding any
22 language in the existing permits or in Ordinance No. 17-083, as amended, to the contrary. The new
23 permits, and any additional permits, shall be non-exclusive in that more than one refuse collector may
24 be given a permit to operate within the same route, in the Director's discretion.

1 (e) The Director of Public Health may revoke or modify a permit upon seven days' written
2 notice to the permittee, if the permittee has violated this Section 290, or if the Director finds there is
3 inadequate service. The permit must be revoked or modified, however, and it is mandatory on the
4 Director to revoke or modify the permit, after providing seven days' notice, if 20% or more of the
5 householders, businesses, apartment house owners, hotel keepers, institutions, or residents in said
6 route or routes, using refuse service, and paying for same, or obligated to do so, have signed a petition
7 or contract in which they have stated that they are inadequately served by the refuse collector who is
8 then collecting refuse on said route or routes, provided that the Director finds upon substantial
9 evidence that such statement is correct. Inadequate service is defined as the failure, on the part of any
10 refuse collector to properly collect, handle, or transport refuse on said route, or the overcharging for
11 the collection of same, or insolence towards persons whose refuse has been collected, or the collection
12 by any refuse collector whose license has been revoked as provided in Section 290.9 hereof. In either
13 case, the permittee shall have 30 days to appeal the Director's decision to the Health Commission.

14 (f) Further, upon the conviction of any person, firm, or corporation for any violation of the
15 provisions of this Section 290, the permit of such person, firm, or corporation shall be forthwith and
16 immediately terminated and canceled by operation of law as of the date of conviction.

17 * *

18 (g) "Persons, firms or corporations desiring to transport through the streets of the City
19 and County of San Francisco only waste paper or other refuse having commercial value, and
20 to collect and dispose of same need not obtain a permit therefor under the provisions of this
21 ~~ordinance~~ Section 290."

22 Section 290.5. Refuse collected by refuse collectors shall be disposed of by such persons,
23 firms, or corporations and in such manner or by such method or methods as from time to time
24 designated by law. The maximum rate or charge for the disposal of refuse to be charged the refuse
25 collector by any person, firm, or corporation authorized by the Board of Supervisors to dispose of

1 refuse shall be set by the Refuse Rate Board, and those rates or charges may be adjusted from time to
2 time, in the same manner and in accordance with the same procedures as is provided for the
3 adjustment of rates and charges for the collection of refuse in Section 290.6.

4 **Section 290.6.** (a) The maximum rates or charges for the collection and disposition of refuse
5 by refuse collectors from residences, flats, and apartment houses of not more than 600 rooms, and the
6 regulations relating to such rates or charges, shall be set by order of the Refuse Rate Board. In
7 determining the number of rooms of any household, building or apartment in order to ascertain the rate
8 for the collection and disposition of refuse therefrom, halls, alcoves, storerooms, bathrooms, closets,
9 and toilets shall not be considered as rooms, nor shall basements or attics be considered as rooms
10 unless the same be occupied as living quarters.

11 **(b) Procedure for Adjustment.**

12 (1) There is hereby created a Refuse Rate Board consisting of the City Administrator,
13 who shall act as chairperson, the General Manager of the San Francisco Public Utilities Commission,
14 and a Ratepayer Representative who shall be appointed pursuant to Section 3.100(18) of the Charter of
15 the City and County of San Francisco. The Ratepayer Representative shall be recommended by The
16 Utility Reform Network or any other entity that is dedicated to protecting ratepayers that the Board of
17 Supervisors has designated by resolution, and shall have professionally relevant experience in
18 operations, finance, utilities regulation, the refuse industry, or other related fields. The City
19 Administrator and General Manager of the San Francisco Public Utilities Commission may from time
20 to time designate a subordinate from their own departments to act in their place and stead as members
21 of the Refuse Rate Board.

22 (2) The Refuse Rate Board shall convene upon call of the chairperson or the other two
23 members, and two members shall constitute a quorum. The Refuse Rate Board shall act by majority
24 vote. The Refuse Rate Board shall adopt and adhere to a code of conduct, including limitations on ex
25 parte communications during the rate setting process.

1 (3) The Refuse Rate Board shall receive assistance from the Refuse Rate Administrator.
2 The Controller shall serve as the Refuse Rate Administrator and may designate staff from the
3 Controller's Office to perform or assist with this function. The Refuse Rate Administrator shall be
4 responsible for proposing new rates (including adjustments to existing rates) to the Refuse Rate Board
5 on the timeline established by the Refuse Rate Board in its prior rate order, monitoring the financial
6 and operational performance of refuse collectors, performing studies and investigations, and advising
7 the Refuse Rate Board as may be deemed necessary to ensure the rates are just and reasonable, taking
8 into account any applicable service standards and environmental goals as established by law. The
9 Refuse Rate Administrator shall present information to the Commission on the Environment and the
10 Sanitation and Streets Commission, at separate or joint public hearing(s), the time and place of which
11 shall be noticed not less than 20 days in advance at least once in an official newspaper of the City and
12 County of San Francisco, to solicit comment from the commissions and interested members of the
13 public, before submitting proposed rates to the Refuse Rate Board. The Refuse Rate Administrator may
14 also consult with the refuse collector(s), the Department of the Environment, the Department of
15 Sanitation and Streets, and other City agencies and others, and may conduct public hearings, as the
16 Refuse Rate Administrator deems appropriate.

17 (4) Any person, firm, or corporation (including any holder of a permit to collect and
18 dispose of refuse) affected by the rates, or by the proposed rates, and desiring an increase, decrease, or
19 other adjustment or change in, or addition to, such rates or schedules or the regulations appertaining,
20 may also file a written objection with the Refuse Rate Administrator. The Refuse Rate Administrator
21 shall consider all objections, and shall address them at the hearing of the Refuse Rate Board on the
22 proposed rates.

23 (5) The Refuse Rate Board shall commence the public hearing within 30 days after
24 receipt of the Refuse Rate Administrator's rate proposal. The time and place of the hearing shall be
25 noticed not less than 20 days in advance at least once in an official newspaper of the City and County

1 of San Francisco. The Refuse Rate Board shall be empowered to make or cause to be made such
2 studies and investigations as it may deem pertinent, and to introduce the results of such studies and
3 investigations in evidence. Any person, firm, or corporation affected by the proposed rates shall be
4 entitled to appear at the hearing and be heard. Any such person, firm, or corporation desiring notice
5 of further proceedings or action upon the application may file with the Refuse Rate Board a written
6 request for such notice, setting forth their name and contact information.

7 (6) The Refuse Rate Board is authorized to obtain financial audits of regulated revenues
8 and expenses of the refuse collector(s) and refuse disposer(s), performed by an external auditor
9 selected by the Refuse Rate Board in accordance with the Charter. The Refuse Rate Board shall also
10 adopt performance standards for refuse collectors and refuse disposers, and shall endeavor to maintain
11 rate stability and accountability and an annual accounting of actual versus projected expenditures and
12 revenues of the refuse collectors and refuse disposers, through means such as the establishment of
13 balancing accounts, rate stabilization funds, or similar features.

14 (7) Upon conclusion of the hearing, the Refuse Rate Board shall adopt an order setting
15 forth the facts based on the evidence taken and record made at the hearing. The order, if it provides
16 for any change in the rates, schedules of rates, or regulations then in effect, shall set forth the date that
17 the change is to take effect, which date shall be not less than 15 days from the date of the order. The
18 order shall remain in effect for a term of at least two years but not to exceed five years, as specified by
19 the Refuse Rate Board. Any revised rates, schedules of rates, or regulations placed in effect pursuant
20 hereto shall be just and reasonable.

21 (8) The Refuse Rate Administrator shall publish the order in an official newspaper of
22 the City and County of San Francisco, and shall provide notice of the order to all who shall have filed
23 written requests for notice as set forth in subsection (b)(5). After the order takes effect, the Refuse Rate
24 Administrator shall monitor the rates and shall update the Refuse Rate Board at least once per year, or
25 more frequently as directed by the Refuse Rate Board.

1 (9) Nothing in this Section 290 shall prohibit the Refuse Rate Administrator, a refuse
2 collector, or any member of the public from petitioning the Refuse Rate Board to adjust the rates
3 during the term of an existing order; provided, however, that it shall be the policy of the Refuse Rate
4 Board not to adjust the rates during the term of an existing rate order unless necessary due to
5 extraordinary or unforeseen circumstances.

6 (c) The Refuse Rate Board may also use the procedures for adjustment in subsection (b) to
7 adopt orders regarding the maximum rates or charges for establishments other than residences, flats,
8 and apartment houses of not more than 600 rooms, except as prohibited by state or federal law, and
9 provided that all rates set under this Section 290.6 remain reasonable and fair.

10 **Section 290.7.** It shall be unlawful for any refuse disposer or refuse collector to charge a
11 greater rate for the disposal of refuse or for the collection and disposition of refuse than that fixed in,
12 or pursuant to, Sections 290.5 and 290.6. Nothing in this Section 290 shall be taken or construed as
13 preventing a refuse disposer or a refuse collector from charging a lesser rate or charge for the disposal
14 of refuse or for the collection and disposition of refuse than that fixed in, or pursuant to, Sections 290.5
15 and 290.6.

16 **Section 290.8.** Each refuse collector shall be licensed by the Director of Public Health. The
17 fees for said licenses shall be governed by Business and Tax Regulations Code Section 249.6, as it may
18 be amended from time to time. Each vehicle in which refuse is transported through the streets shall be
19 assigned a number by the Director of Public Health and the number thereof shall be plainly marked
20 thereon.

21 **Section 290.9.** The license, as distinguished from a permit herein, of any refuse collector,
22 may be revoked by the Director of Public Health for failure on the part of the refuse collector to
23 properly collect refuse, or for overcharging for the collection of same, or for insolence towards persons
24 whose refuse they are collecting, and it shall be unlawful for any person whose license is so revoked to
25 collect refuse in the City and County of San Francisco. No license of a refuse collector shall be

1 revoked except upon a hearing of which the refuse collector has been given a notice of at least three
2 days.

3 Section 290.10. Upon the payment of the rate fixed in or pursuant to Section 290.6, the
4 person paying the same shall receive a receipt from the refuse collector identifying the name of the
5 collector, the amount paid, the date of payment, the premises for which the payment was made, and
6 such other information as the Department of Public Health may require to ensure accuracy with
7 respect to the imposition and collection of charges for refuse.

8 "Section 290.11. Disputes over charges made by collectors or as to the character of
9 the service performed shall be decided by the Director of Public Health. Any charges made in
10 excess of rates fixed pursuant to this Section 290~~ordinance~~, when determined by the Director of
11 Public Health, shall be refunded to the person or persons who paid the excess charge.

12 "Section 290.12. A refuse collector shall be entitled to payment for the collection of
13 refuse at the end of each month from each householder or landlord served by ~~him~~the collector
14 and from whom the payment is due."

15 "Section ~~290.13~~14. Any person, firm, or corporation who shall violate any of the
16 provisions of this ~~ordinance~~ Section 290 shall be guilty of a misdemeanor, and upon conviction
17 thereof, shall be punished by a fine not to exceed \$500 or by imprisonment in the County Jail
18 for not more than six months, or by both such fine and imprisonment.

19 Section 290.14. (a) The Refuse Rate Administrator shall furnish the Director of Public Health
20 with such financial data, including data as to the cost of refuse collections, as may be required to
21 enable the Director to perform the Director's functions under this Section 290.

22 (b) Each refuse collector holding a permit shall keep such records and render such reports as
23 may be required by the Refuse Rate Administrator to enable the Refuse Rate Administrator to develop
24 the above-mentioned data, and the Refuse Rate Administrator shall have access to such records.

1 **Section 290.15.** On recommendation of the Refuse Rate Administrator and the Refuse Rate
2 Board and the Mayor, and by supermajority of at least eight votes, the Board of Supervisors may by
3 ordinance amend any portion of this Section 290, except that the Board of Supervisors may not alter
4 the composition of the Refuse Rate Board or eliminate the requirement that refuse rates shall be
5 approved by order of the Refuse Rate Board. Further, any such amendments must further one or more
6 of the following purposes: (1) to ensure that refuse service remains cost-effective and can meet
7 established service standards and environmental goals; (2) to promote stability in the rate structure
8 and enable rates that are reasonable and fair; (3) to ensure the process for setting and monitoring
9 rates is transparent, accountable, and publicly-accessible; or (4) to ensure the Refuse Rate Board and
10 Refuse Rate Administrator conduct their duties under this Section 290 in line with high professional
11 ethical standards. The foregoing grant of authority to the Board of Supervisors to adopt legislation
12 concerning permits shall not be interpreted to affect or impair the authority that the Department of
13 Public Health currently has, absent such legislation, with regard to the issuance or renewal or
14 termination of permits. In addition, this Section 290.15 does not affect or impair the ability of the
15 voters of the City and County of San Francisco to adopt future initiative ordinances to amend any
16 portion of this Section 290.

17 **Section 290.16.** If any section, subsection, sentence, clause, phrase, or word of this Section
18 290, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional
19 by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the
20 remaining portions or applications of this Section 290. The People of the City and County of San
21 Francisco hereby declare that they would have adopted this Section 290 and each and every section,
22 subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard
23 to whether any other portion of this Section 290 or application thereof would be subsequently declared
24 invalid or unconstitutional.

1 Section 290.17. In enacting and implementing this Section 290, the City and County of San
2 Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
3 imposing on its officers and employees, an obligation for breach of which it is liable in money damages
4 to any person who claims that such breach proximately caused injury.

5
6 Section 4. Nature of Ordinance.

7 (a) Health Code Section 290 currently contains portions of the City’s Refuse Collection
8 and Disposal Ordinance (“Refuse Ordinance”) (Ordinance No. 17-083), which the People of
9 the City and County of San Francisco adopted via Proposition 6 (November 8, 1932). The
10 People subsequently amended the Refuse Ordinance three times, via Ordinance No. 16
11 (November 5, 1946), Proposition C (June 8, 1954), and Proposition F (June 7, 1960). The
12 entire Refuse Ordinance has not heretofore been codified in Health Code Section 290.

13 (b) In enacting this ordinance, the People of the City and County of San Francisco
14 intend to codify the entire Refuse Ordinance, including the three amendments referenced in
15 subsection (a), at Health Code Section 290. But the People also intend to further amend the
16 entire Refuse Ordinance. As a result, the entirety of the Refuse Ordinance, including as
17 amended by this ordinance, will be in Health Code Section 290.

18 (c) Because this ordinance in part codifies previously uncodified text, some text in the
19 ordinance that is shown as additions to text in accordance with the “Note” that appears under
20 the official title of the ordinance actually does not change the law, but merely reflects that
21 previously uncodified text has now been codified.

22
23 Section 5. Conflicting Ballot Measures. In the event that this measure and another
24 measure relating to refuse collection shall appear on the same municipal election ballot, the
25 provisions of such other measure shall be deemed in conflict with this measure. In the event

1 that this measure shall receive a greater number of affirmative votes, the provisions of this
2 measure shall prevail in their entirety and each and every provision of the other measure that
3 conflicts, in whole or in part, with this measure shall be null and void in its entirety.

4

5 APPROVED AS TO FORM:

6 DAVID CHIU, City Attorney

7

8 By: /s/
9 MANU PRADHAN
Deputy City Attorney

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LEGISLATIVE DIGEST
(revised 2/14/2022)

[Initiative Ordinance - Health Code - Refuse Collection and Disposal Ordinance]

Ordinance amending the Refuse Collection and Disposal Ordinance (“the Refuse Ordinance”) to restructure the refuse rate-setting process to replace hearings before the Department of Public Works with a requirement that the Controller, as Refuse Rate Administrator, regularly monitor the rates and appear before the Refuse Rate Board to recommend rate adjustments; establish an appointed Ratepayer Representative to replace the Controller on the Refuse Rate Board; authorize the Refuse Rate Board to set commercial rates; require a competitive process for all existing and future refuse collection permits; authorize the Board of Supervisors on recommendation of the Refuse Rate Administrator, Refuse Rate Board, and Mayor to amend the Refuse Ordinance by eight-vote supermajority; and fully codifying the Refuse Ordinance in the Health Code.

Existing Law

The City regulates the collection, transport, and disposal of “refuse” (i.e., trash, compost, and recyclables) under a voter-adopted ordinance known as “the Refuse Ordinance.” Among other things, the Refuse Ordinance created a Refuse Rate Board which is comprised of the City Administrator, the City Controller, and the General Manager of the Public Utilities Commission. The Refuse Rate Board sets the maximum rate for residential refuse collection and for refuse disposal. The Refuse Rate Board does not set a maximum rate for commercial refuse collection; these rates are set through private contracts between customers and refuse collectors.

When the Refuse Rate Board receives an application to change the refuse rates, it first refers the application to the Director of Public Works. The Director must hold a public hearing on the application and then provide a recommendation to the Refuse Rate Board. If nobody objects to the Director’s recommendation, it becomes final. If someone objects, then the Refuse Rate Board holds a public hearing and can modify the Director’s recommendation.

The Refuse Ordinance also divided the City into routes, and requires refuse collectors to have permits from the Department of Public Health to operate on those routes. The Department of Public Health may authorize more than one collector to operate on a given route in the event of inadequate service.

Because the Refuse Ordinance does not authorize amendments by the Board of Supervisors, it requires approval of the voters to amend it.

Amendments to Current Law

The proposed measure would remove the Controller from the Refuse Rate Board and replace the Controller with a Ratepayer Representative, who would need to be recommended by an organization dedicated to protecting ratepayers.

Instead of serving on the Refuse Rate Board, the Controller would serve as the Refuse Rate Administrator. In that capacity, the Controller rather than the Director of Public Works would be responsible for monitoring rates and proposing new rates to the Refuse Rate Board. Before proposing any new rates, the Refuse Rate Administrator would be required to present its proposals at public hearings before the Commission on the Environment and Commission on Streets and Sanitation. The Refuse Rate Board would need to hold a public hearing on the Refuse Rate Administrator's proposed rates and then issue a final decision.

Under the proposed measure, the Refuse Rate Board would also have the authority to set a maximum rate for commercial customers, provided that all the rates set by the Refuse Rate Board remain reasonable and fair.

The proposed measure would also require the Department of Public Health to develop a process to terminate the currently existing route permits and issue new permits following an open and competitive process. Among other things, an applicant for a permit would need to show their ability to avoid disruptions in service (an applicant may satisfy this requirement by certifying it has appointed one or more employee representatives to its governing board, but that would not be the only way to satisfy the requirement). The Department of Public Health would need to solicit applications from all interested parties before issuing new permits.

Finally, while the voters could continue to amend the Refuse Ordinance in the future, the proposed measure would also authorize amendments by the Board of Supervisors. The Board of Supervisors would need to approve any such amendments by ordinance with a supermajority of at least eight votes, and the amendments would need to further certain specified purposes and would need to be recommended by the Refuse Rate Administrator, the Rate Board, and the Mayor.

Background Information

Health Code Section 290 currently contains portions of the Refuse Ordinance, which the voters adopted via Proposition 6 (November 8, 1932), which was amended via Ordinance No. 16 (November 5, 1946), Proposition C (June 8, 1954), and Proposition F (June 7, 1960). The entire Refuse Ordinance has not previously been codified in Health Code Section 290. The proposed measure would codify the entire Refuse Ordinance at Health Code Section 290, along with the amendments as summarized above. As a result, the entirety of the Refuse Ordinance, including as amended by this ordinance, will be in Health Code Section 290.

This version of the legislative digest reflects amendments made on February 14, 2022. The amendments provide that permit applicants may be able to establish an ability to avoid service disruptions by certifying they have appointed employee representatives to their governing boards; align the definition of “refuse” with existing law under the Environment Code; increase the vote threshold for future legislation to amend the Refuse Ordinance from seven to eight votes; and make other non-substantive edits and clarifications.

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OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

February 11, 2022

RE: File 220053 – Ordinance amending the Refuse Collection and Disposal Ordinance

Dear Ms. Calvillo,

Should the proposed ordinance be approved by the voters, in my opinion, it would have a significant impact on the cost of government. This analysis is limited to the effects of the proposed ordinance on the cost of government and does not include an analysis of the effect of the ordinance on the costs of recycling, composting and disposal services provided to San Francisco residents and businesses.

The proposed ordinance would amend the current Refuse Collection and Disposal Ordinance to appoint the Controller as the Refuse Rate Administrator to monitor refuse rates and recommend refuse rate adjustments to the Refuse Rate Board. An appointed Ratepayer Representative would replace the Controller as a member of the Refuse Rate Board. The ordinance requires a competitive process for all existing and future route permits, authorizes the Rate Board to regulate commercial rates as well as residential and allows a supermajority of the Board of Supervisors to amend the ordinance, on recommendation of the Rate Administrator, Rate Board, and Mayor.

The estimated annual cost for the refuse rate administration, including office space and staffing, and addition of a Ratepayer Representative to the Refuse Rate Board is \$500,000 to \$1,000,000. Cost estimates are incremental effort above current spending on these activities. Duties related to the rate-application process that had been previously done by the Department of Public Works staff will be removed from their larger portfolios, and the contracted out public advocate function will no longer be needed. Conducting a competitive process for route permits would incur significant costs to implement over multiple years. Costs resulting from future amendments to the ordinance, such as regulation of commercial rates, are not included in this estimate. Note that the proposed amendment would change the duties of the Controller's Office, which has prepared this statement.

Sincerely,

Natasha Mihal

for

Ben Rosenfield
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.

Goals & Key Questions

- **Accountability & Transparency:** How transparent and accountable to the public are the processes managing rate setting?
- **Quality of Service:** Is service cost-effective and does it meet established environmental and performance standards?
- **Rates:** Are customers paying appropriate and fair rates for residential refuse services?

Rate-setting **timeframe may be too long** to truly estimate costs

- Ad hoc nature does not allow for City staff to build expertise
- Rate calculations are complicated, not transparent, and need improved methodology to ensure accuracy

Lack of sufficient **ongoing monitoring**

- Lack of independent audits has led to low public confidence
- Little monitoring of performance standards occurs, including environmental and customer service goals
- Rate Board is not involved in ongoing monitoring outside of rate setting process

The structure of the 1932 Refuse Ordinance has **limited the City's ability to make changes** to the system when issues are identified

Proposed Refuse Measure

3

- Controller established as the **Refuse Rate Administrator**
 - Administer the rate setting process and propose rates to the Rate Board
 - Ongoing financial and performance monitoring of residential refuse provider
- **Rate Board** membership & responsibility changes
 - Remove Controller, add ratepayer representative
 - Approves rate applications and oversees ongoing financial and performance reporting
- Allows **flexibility** for the future
 - Authorizes regulation of commercial rates
 - Allows changes with BOS supermajority, MYR approval

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

February 16, 2022

File No. 220053 (ver2)

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

The following proposed Initiative Ordinance for the June 7, 2022, Election was received and assigned to the Board of Supervisors' Rules Committee:

File No. 220053 (ver2)

Motion ordering submitted to the voters at an election to be held on June 7, 2022, an Ordinance amending the Refuse Collection and Disposal Ordinance ("the Refuse Ordinance") to restructure the refuse rate-setting process to replace hearings before the Department of Public Works with a requirement that the Controller, as Refuse Rate Administrator, regularly monitor the rates and appear before the Refuse Rate Board to recommend rate adjustments; establish an appointed Ratepayer Representative to replace the Controller on the Refuse Rate Board; authorize the Refuse Rate Board to set commercial rates; require a competitive process for all existing and future refuse collection permits; authorize the Board of Supervisors on recommendation of the Refuse Rate Administrator, Refuse Rate Board, and Mayor to amend the Refuse Ordinance by eight-vote supermajority; and fully codifying the Refuse Ordinance in the Health Code.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Victor Young".

By: Victor Young, Assistant Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning
Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in direct or indirect physical change in the environment.

02/17/2022

A handwritten signature in black ink that reads "Joy Navarrete".


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MEMORANDUM

TO: Tom Paulino, Liaison to the Board of Supervisors, Mayor's Office
Anne Pearson, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission
Carla Short, Interim Director, Public Works

FROM: Victor Young, Assistant Clerk, Rules Committee 
Board of Supervisors

DATE: January 18, 2022

SUBJECT: INITIATIVE ORDINANCE INTRODUCED
June 7, 2022 Election

The Board of Supervisors' Rules Committee has received the following Initiative Ordinance for the June 7, 2022, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 220053

Motion ordering submitted to the voters at an election to be held on June 7, 2022, an Ordinance amending the Refuse Collection and Disposal Ordinance ("the Refuse Ordinance") to restructure the refuse rate-setting process to replace hearings before the Department of Public Works with a requirement that the Controller, as Refuse Rate Administrator, regularly monitor the rates and appear before the Refuse Rate Board to recommend rate adjustments; establish an appointed Ratepayer Representative to replace the Controller on the Refuse Rate Board; authorize the Refuse Rate Board to set commercial rates; require a competitive process for all existing and future route permits; authorize the Board of Supervisors on recommendation of the Refuse Rate Administrator, Refuse Rate Board, and Mayor to amend the Refuse Ordinance by supermajority vote; and fully codifying the Refuse Ordinance in the Health Code.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please forward to me at the Board

of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Andres Power, Mayor's Office
 Patrick Ford, Ethics Commission
 David Steinberg, Public Works
 Bryan Dahl, Public Works
 John Thomas, Public Works
 Lena Liu, Public Works