

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 applicants for refuse collection permits to demonstrate**
11 **their ability to avoid disruptions in service; clarify existing law regarding refuse**
12 **collection permits; authorize the Board of Supervisors on recommendation of the**
13 **Refuse Rate Administrator, Refuse Rate Board, and Mayor to amend the Refuse**
14 **Ordinance by eight-vote supermajority; and fully codifying the Refuse Ordinance in the**
15 **Health Code.**

16

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

19

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

1 set commercial rates; require applicants for refuse collection permits to demonstrate
2 their ability to avoid disruptions in service; clarify existing law regarding refuse
3 collection permits; authorize the Board of Supervisors on recommendation of the
4 Refuse Rate Administrator, Refuse Rate Board, and Mayor to amend the Refuse
5 Ordinance by eight-vote supermajority; and fully codifying the Refuse Ordinance in the
6 Health Code.

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

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

12 Section 1. Title.

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

14
15 Section 2. Background and Purpose.

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

24 (b) The purpose of this ordinance is to reform and modernize the City’s process for
25 setting residential refuse rates to be more fair, transparent, and accountable; and to help the

1 City continue to pursue its Zero-Waste goals. To achieve these multiple purposes, the People
2 of the City and County of San Francisco hereby establish the following principles to govern
3 this process:

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

13 (c) This ordinance also authorizes the Board of Supervisors, on recommendation of
14 the Refuse Rate Administrator and the Refuse Rate Board and the Mayor, to update the
15 Refuse Collection and Disposal Ordinance, as codified in Health Code Section 290 by this
16 ordinance, from time to time, so that the Ordinance can continue to meet the above standards
17 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) Upon the conviction of any person, firm, or corporation for any violation of the provisions
21 of this Section 290, the permit of such person, firm, or corporation issued under the provisions of this
22 Section 290.4, shall be forthwith and immediately terminated and canceled by operation of law as of
23 the date of conviction.

24 (c) Ordinance No. 17-083 divided the City and County of San Francisco into routes for the
25 collection of refuse, as designated on a map of the City, each route to include only the side of the street

1 or streets bounding each route as designated by a number on said map, said routes being numbered 1
2 to 97, inclusive. Said map and said routes were marked Exhibit A and are attached to and were made a
3 part of Ordinance No. 17-083.

4 (d) Any person, firm, or corporation desiring to transport through the streets of the City and
5 County of San Francisco any refuse, or to collect or dispose of the same, shall apply to the Director of
6 Public Health for permission so to do. The permit application shall contain such information as the
7 Director of Public Health may require, including but not limited to the name of the applicant, any of
8 the particular routes that the applicant proposes to serve, and a statement that the applicant will abide
9 by all the provisions of this Section 290 and will not charge a greater rate for the collection and
10 disposition of said refuse than that fixed in or pursuant to this Section 290. A permit applicant shall
11 also demonstrate its ability to avoid disruptions in service; a certification that the applicant has
12 appointed one or more employee representatives to its governing board may suffice to make this
13 showing.

14 (e) The Director of Public Health shall grant a permit to such applicant unless the Director
15 finds the route proposed is already adequately served by a licensed refuse collector. An application for
16 a permit must be granted, however, by the Director of Public Health, and it is mandatory on the
17 Director to grant the same, when it shall appear in any permit application that 20% or more of the
18 householders, businesses, apartment house owners, hotel keepers, institutions, or residents in said
19 route or routes, using refuse service, and paying for same, or obligated to do so, have signed a petition
20 or contract in which they have stated that they are inadequately served by any refuse collector who is
21 then collecting refuse on said route or routes, provided that the Director finds upon substantial
22 evidence that such statement is correct. Inadequate service is hereby defined as the failure on the part
23 of any refuse collector to properly collect, handle, or transport refuse on said route, or the
24 overcharging for the collection of same, or insolence towards persons whose refuse has been collected,
25 or the collection by any refuse collector whose license has been revoked as provided in Section 290.9.

1 Permits granted by the Director of Public Health shall not be exclusive, however, and one or more
2 persons, firms, or corporations may be given a permit to collect on the same route.

3 * *

4 (f) "Persons, firms, or corporations desiring to transport through the streets of the City
5 and County of San Francisco only waste paper or other refuse having commercial value, and
6 to collect and dispose of same need not obtain a permit therefor under the provisions of this
7 ordinanceSection 290."

8 Section 290.5. Refuse collected by refuse collectors shall be disposed of by such persons,
9 firms, or corporations and in such manner or by such method or methods as from time to time
10 designated by law. The maximum rate or charge for the disposal of refuse to be charged the refuse
11 collector by any person, firm, or corporation authorized by the Board of Supervisors to dispose of
12 refuse shall be set by the Refuse Rate Board, and those rates or charges may be adjusted from time to
13 time, in the same manner and in accordance with the same procedures as is provided for the
14 adjustment of rates and charges for the collection of refuse in Section 290.6.

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

22 (b) Procedure for Adjustment.

23 (1) There is hereby created a Refuse Rate Board consisting of the City Administrator,
24 who shall act as chairperson, the General Manager of the San Francisco Public Utilities Commission,
25 and a Ratepayer Representative who shall be appointed pursuant to Section 3.100(18) of the Charter of

1 the City and County of San Francisco. The Ratepayer Representative shall be recommended by The
2 Utility Reform Network or any other entity that is dedicated to protecting ratepayers that the Board of
3 Supervisors has designated by resolution, and shall have professionally relevant experience in
4 operations, finance, utilities regulation, the refuse industry, or other related fields. The City
5 Administrator and General Manager of the San Francisco Public Utilities Commission may from time
6 to time designate a subordinate from their own departments to act in their place and stead as members
7 of the Refuse Rate Board.

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

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

1 Sanitation and Streets, and other City agencies and others, and may conduct public hearings, as the
2 Refuse Rate Administrator deems appropriate.

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

9 (5) The Refuse Rate Board shall commence the public hearing within 30 days after
10 receipt of the Refuse Rate Administrator's rate proposal. The time and place of the hearing shall be
11 noticed not less than 20 days in advance at least once in an official newspaper of the City and County
12 of San Francisco. The Refuse Rate Board shall be empowered to make or cause to be made such
13 studies and investigations as it may deem pertinent, and to introduce the results of such studies and
14 investigations in evidence. Any person, firm, or corporation affected by the proposed rates shall be
15 entitled to appear at the hearing and be heard. Any such person, firm, or corporation desiring notice
16 of further proceedings or action upon the application may file with the Refuse Rate Board a written
17 request for such notice, setting forth their name and contact information.

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

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

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

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

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

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

1 of refuse or for the collection and disposition of refuse than that fixed in, or pursuant to, Sections 290.5
2 and 290.6.

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

8 Section 290.9. The license, as distinguished from a permit herein, of any refuse collector,
9 may be revoked by the Director of Public Health for failure on the part of the refuse collector to
10 properly collect refuse, or for overcharging for the collection of same, or for insolence towards persons
11 whose refuse they are collecting, and it shall be unlawful for any person whose license is so revoked to
12 collect refuse in the City and County of San Francisco. No license of a refuse collector shall be
13 revoked except upon a hearing of which the refuse collector has been given a notice of at least three
14 days.

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

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

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

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

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

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

14 **Section 290.15.** On recommendation of the Refuse Rate Administrator and the Refuse Rate
15 Board and the Mayor, and by supermajority of at least eight votes, the Board of Supervisors may by
16 ordinance amend any portion of this Section 290, except that the Board of Supervisors may not alter
17 the composition of the Refuse Rate Board or eliminate the requirement that refuse rates shall be
18 approved by order of the Refuse Rate Board. Further, any such amendments must further one or more
19 of the following purposes: (1) to ensure that refuse service remains cost-effective and can meet
20 established service standards and environmental goals; (2) to promote stability in the rate structure
21 and enable rates that are reasonable and fair; (3) to ensure the process for setting and monitoring
22 rates is transparent, accountable, and publicly-accessible; or (4) to ensure the Refuse Rate Board and
23 Refuse Rate Administrator conduct their duties under this Section 290 in line with high professional
24 ethical standards. Such amendments may address, for example and without limitation, the standards
25 and procedures for terminating existing route permits and the issuance of future permits subject to

1 competitive bidding processes. The foregoing grant of authority to the Board of Supervisors to adopt
2 legislation concerning permits shall not be interpreted to affect or impair the authority that the
3 Department of Public Health currently has, absent such legislation, with regard to the issuance or
4 renewal or termination of permits. In addition, this Section 290.15 does not affect or impair the ability
5 of the voters of the City and County of San Francisco to adopt future initiative ordinances to amend
6 any portion of this Section 290.

7 **Section 290.16.** If any section, subsection, sentence, clause, phrase, or word of this Section
8 290, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional
9 by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the
10 remaining portions or applications of this Section 290. The People of the City and County of San
11 Francisco hereby declare that they would have adopted this Section 290 and each and every section,
12 subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard
13 to whether any other portion of this Section 290 or application thereof would be subsequently declared
14 invalid or unconstitutional.

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

19
20 Section 4. Nature of Ordinance.

21 (a) Health Code Section 290 currently contains portions of the City's Refuse Collection
22 and Disposal Ordinance ("Refuse Ordinance") (Ordinance No. 17-083), which the People of
23 the City and County of San Francisco adopted via Proposition 6 (November 8, 1932). The
24 People subsequently amended the Refuse Ordinance three times, via Ordinance No. 16
25

