

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 12, 2022
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Title, Summary, and City Attorney Impartial Analysis for Ballot Measure – Amends San Diego Municipal Code Section 66.0127 Related to Solid Waste Management Services

The City Council has directed the City Attorney to prepare a ballot title, summary, and impartial analysis of a measure that would amend the People’s Ordinance, a voter initiative codified at San Diego Municipal Code (SDMC or Municipal Code) Section 66.0127, related to solid waste management services, which the City Council voted to place on the November 2022 ballot. (*See* Resolution R-314245, adopted July 25, 2022).

The measure seeks voter approval to amend the Municipal Code by amending Chapter 6, Article 6, Division 1, section 66.0127.

The City Council adopted San Diego Ordinance O-21507 on July 25, 2022, to submit the measure to the voters on the November 8, 2022, Municipal Special Election ballot.

BALLOT TITLE

Amendments to San Diego Municipal Code section 66.0127, Related to Solid Waste Management Services, commonly known as the People’s Ordinance.

BALLOT SUMMARY

This measure would amend the law commonly known as the People’s Ordinance found in San Diego Municipal Code section 66.0127. The People’s Ordinance governs solid waste management services in the City of San Diego (City), which include the collection, transfer,

transportation, recycling, and disposal of solid waste such as trash, recyclables, organic waste, and other waste.

City voters adopted the People's Ordinance as a citizens' initiative in 1919, which required the City to collect all "refuse," now generally referred to as "solid waste," generated within City limits. The People's Ordinance authorized the City to impose a fee to specifically cover the cost of collection, transportation, and disposal of such waste, which it never did.

In 1981, and again in 1986, City voters amended the People's Ordinance to limit the amount of commercial and industrial waste the City was required to collect, and to prohibit the City from charging a fee to properties that received City-provided solid waste management services, among other changes. Properties not eligible for City-provided solid waste management services arrange and pay for the cost of their own solid waste management services.

This measure asks voters to consider a third amendment to the People's Ordinance that, if adopted, would clarify eligibility and allow the City to charge a fee for City-provided solid waste management services to eligible single family residential properties and multi-family residential properties with up to four residences on a single lot.

Although this measure does not create or approve a fee for solid waste management services, it does allow the City Council to adopt a fee in the future. Under state law, the City Council would consider the imposition of any related City fee at a public meeting and any City fee could not exceed the City's cost of providing the services.

The People's Ordinance currently allows the City to enter private property to provide solid waste management services in an emergency. This amendment would allow the City to also enter private property to assist a resident under the Americans with Disabilities Act; for example, the City could help a resident with disabilities move trash collection bins to the curb. The

amendment would also clarify the City's authority to provide solid waste management services to City facilities, parks, beaches, and other City-managed properties.

The City Council placed the measure on the ballot. The measure will pass if it is approved by a majority vote of those qualified voters who vote on the measure. The amendments would take effect after the results of the election are certified by a resolution of the City Council.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

In 1919, City of San Diego (City) voters approved a citizens' initiative known as the People's Ordinance, which required the City to collect all "refuse," now generally referred to as "solid waste," generated within City limits, and to impose a fee to cover the cost of providing collection, transportation, and disposal of solid waste, which it never did. City voters later amended the People's Ordinance to prohibit the City from charging a fee to properties that received solid waste management services from the City.

Today, the People's Ordinance requires the City to collect, transport, and dispose of solid waste from certain residential properties at least once each week and prohibits the City from charging a fee for these services. Solid waste includes trash, recyclables, organic waste, and other waste. The People's Ordinance also prohibits the City from collecting nonresidential waste, which includes commercial and industrial waste, except under limited circumstances, and generally prohibits the City from entering private property to provide solid waste management services except in a public emergency.

Under existing law, eligible residential properties receive City-provided services funded by the City's General and Recycling Funds, whereas properties not eligible for City-provided solid waste management services must arrange and pay for the cost of their own services.

If adopted, this measure would amend the language in the People's Ordinance to clarify eligibility and authorize the City to charge a fee for City-provided solid waste management services to eligible single family residential properties and multi-family residential properties with up to four residences on a single lot.

This measure would allow the City Council to establish a fee for City-provided solid waste management services at a future date. Before the City could adopt a fee, the City would be required to conduct a study to determine the City's cost to provide the services. Under state law, the fee charged by the City could not exceed the City's cost to provide the services and would be adopted at a public meeting. Any proposed fee would be subject to the majority protest procedures under the California Constitution and would require City Council approval, through the same procedures used for sewer or water rate increases. The fee could include extra related services or materials such as replacement containers.

The measure would clarify that the City may provide solid waste management services, to City facilities, parks, beaches, and City-managed property, using City employees or hired contractors.

The measure would allow the City to enter private property to assist residents with solid waste management services under the Americans with Disabilities Act and would delete outdated language regarding hold harmless agreements and disposal fees.

This measure was proposed by members of the City Council, who voted to place it on the ballot. If approved by a majority of the qualified voters voting on the measure, the Municipal Code would be amended after the election results are certified by the City Council.