

**ARTICLE I  
IN GENERAL**

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Sec. 67.1. Findings and Purpose.

Sec. 67.2. Citation.

**SECTION 67.1 FINDINGS AND PURPOSE.**

The ~~Board of Supervisors and the~~ People of the City and County of San Francisco find and declare:

(a) Government's duty is to serve the public, reaching its decisions in full view of the public.

(b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.

(c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government and new information technologies constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.

(d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to

prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances must ~~should~~ be carefully and narrowly defined to prevent public officials from abusing their authority.

(e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong ~~Open Government and Sunshine Ordinance~~, enforced by a strong Sunshine Commission ~~Sunshine Ordinance Task Force~~, can protect the public's interest in open government.

(f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.

(g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, or entity and the public, have ~~has~~ the right to an open and public process.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

## **SECTION 67.2. CITATION.**

This chapter ~~Chapter~~ may be cited as the San Francisco Sunshine Ordinance.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

## **ARTICLE II**

### **PUBLIC ACCESS TO MEETINGS**

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- Sec. 67.3. Definitions.
- Sec. 67.4. Passive Meetings Bodies; Conduct of Business.
- Sec. 67.5. Meetings To Be Open and Public; Application of Brown Act.
- Sec. 67.6. Policy Bodies; Conduct of Business; Time and Place For Meetings.
- Sec. 67.7. Agenda Requirements for Meetings of Policy Bodies; Regular Meetings.
- Sec. 67.7-1. Public Notice Requirements.
- Sec. 67.8. Agenda Disclosures: Closed Sessions.
- ~~Sec. 67.8-1. Additional Requirements for Closed Sessions~~
- Sec. 67.9. Agendas and Related Materials: Public Records.
- Sec. 67.10. Closed Sessions: Permitted Topics.
- Sec. 67.11. Statement of Reasons For Closed Sessions.
- Sec. 67.12. Disclosure of Closed Session Discussions and Actions.
- Sec. 67.13. Barriers to Attendance Prohibited.
- Sec. 67.14. ~~Tape-Recording, Filming and Still Photography.~~
- Sec. 67.15. Public Testimony.
- Sec. 67.16. Minutes.
- Sec. 67.17. Public Comment By Members of Policy Bodies.
- Sec. 67.18 Prohibiting the Disruptive Use of Cell Phones, Pagers, and Similar Sound-producing Devices at and During Public Meetings.
- Sec. 67.19 Supervisor of Public Forums.

**SECTION 67.3. DEFINITIONS.**

Whenever in this article Article the following words or phrases are used, they shall have the following meanings:

(a) "City" shall mean the City and County of San Francisco.

(b) "Meeting" shall mean any of the following:

(1) A congregation of a majority of the members of a policy body at the same time and place; to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the policy body.

(2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item ~~that is within the subject matter jurisdiction of the~~ policy body City, if the cumulative result is that a majority of the members of the policy body has become involved in such gatherings; or

(3) Any ~~other~~ use of personal intermediaries, ~~or communications media or other means~~ that could enable ~~permit~~ a majority of the members of a policy body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.

(4) "Meeting" shall not include any of the following:

(A) Individual contacts or conversations between a member of a policy body and another person that do not convey to the member of the policy body the views or positions of other members of the policy body upon the subject matter of the contact or conversation and in which the member of the policy body does not solicit or encourage the restatement of the views of the other members of the policy body;

(B) The attendance of a majority of the members of a policy body at the same time at a local, regional, statewide, or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of

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the members of a policy body refrains from using the occasion to collectively discuss ~~the topic of the gathering or any other business matter~~ within the subject matter jurisdiction of the policy body City; or

(C) The attendance of a majority of the members of a policy body at a purely social, recreational, or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members of the policy body refrains from using the occasion to discuss any ~~business matter~~ within the subject matter jurisdiction of ~~this~~ the policy body. A meal gathering of a policy body before, during, or after a ~~business meeting~~ of the policy body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion ~~of members~~. Such meetings shall not be conducted in restaurants or other locations accommodations where public access is possible only in consideration of making a purchase or ~~some other~~ payment of value.

~~(C-1)~~(D) The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of the policy body, provided that the members of the policy body who are not members of the standing committee attend only as observers.

(E) When a majority of members attend a meeting of another policy body to observe or publicly comment on a matter specifically noticed before that policy body.

~~(D) — Proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.~~

(c) "Passive meeting body" shall mean:

(1) Advisory committees created by the initiative of a member of a policy body, ~~the Mayor,~~ or a department head other than the Mayor;

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(2) ~~Any group that meets to discuss with or advise the Mayor or any Department Head on fiscal, economic, or policy issues; includes City employees assigned by a policy body, the Mayor, or department head to meet with residents or community groups to obtain information that would result in a report or recommendation from the group back to the policy body, the Mayor or department for action by the policy body, Mayor or department;~~

(3) Social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited.

(4) "Passive meeting body" shall not include a committee that consists solely of ~~City employees of the City and County of San Francisco created by the initiative of a member of a policy body, the Mayor, or a department head;~~

(5) Notwithstanding the provisions of paragraph (4) above, "Passive meeting body" shall include a committee that consists solely of employees of the City and County of San Francisco when such committee is reviewing, developing, modifying, or creating city policies or procedures relating to the public health, safety, or welfare or relating to services for the homeless;

(d) "Policy body" shall mean:

(1) The Board of Supervisors;

(2) Any other board, ~~or commission~~ or other body enumerated in the Charter;

(3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

~~(5)~~(4) Any ~~advisory~~ board, commission, committee or other body, created by the initiative ~~Mayor or of~~ a policy body;

~~(4)~~(5) Any board, commission, committee or other body standing committee of a policy body composed of members of the policy body irrespective of its composition;

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~~(6) — "Policy body" shall not include a committee which consists solely of employees of the City and County of San Francisco, unless such committee was established by Charter or by ordinance or resolution of the Board of Supervisors.~~

~~(6)(7) Any advisory board, commission, committee, or council created by a federal, state, or local grant whose members are appointed by City officials, employees or agents.~~

~~(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 129-98, App. 4/17/98; Proposition G, 11/2/99)~~

~~(e) "Posting" shall mean the following, with respect to posting of notice and agendas of meetings of policy or passive meeting bodies:~~

~~(1) All notices and agendas for policy meeting bodies shall be posted at least three (3) business days in advance of the meeting on a centralized location on the City's website, where the date, time and place of each meeting is listed:~~

~~(2) All notices and agendas, if created, for passive meeting bodies shall be posted at least three (3) business days in advance of the meeting on a centralized location on the City's website, where the date, time and place of each meeting is listed:~~

~~(3) All agendas for policy bodies shall be posted at least three (3) business days in advance of the meeting on the policy body's website:~~

~~(4) All notices and/or agendas for policy or passive meeting bodies shall also be posted at least three (3) business days in advance of the meeting at the main Library; and:~~

~~(5) All notices and/or agendas shall be physically posted outside the meeting room as soon as practicable, but no later than one hour (1) before the scheduled start of each meeting.~~

**SECTION 67.4. PASSIVE MEETINGS BODIES: CONDUCT OF BUSINESS.**

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(a) All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible ~~consistent with the~~that the meeting locations have sufficient capacity, facilities, furniture and equipment, in which they occur.

~~(b)(1) Such gatherings must need not be formally noticed. Notice of the time, place and nature of the meeting shall be posted on the City's website with a contact person's name and contact information at least three business days prior to the scheduled meeting except on the City's website whenever possible, although the time, place and nature of the gathering shall be disclosed and be disclosed by mail, e-mail, or fax upon inquiry by a member of the public, and any. If an agenda actually is prepared in advance for the gathering, it shall be accessible to such inquirers as a public record provided upon request, and as practicable, posted with the notice.~~

~~(2) — Such gatherings need not be conducted in any particular space for the accommodation of members of the public, although members of the public shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy.~~

~~(c)(3) Such gatherings of a business nature need not provide opportunities for comment by members of the public, although the person presiding may, in at his or her discretion, entertain such questions or comments from members of the public spectators as may be relevant to the business of the gathering.~~

~~(d)(4) Such gatherings of a social or ceremonial nature need not provide refreshments to spectators members of the public.~~

~~(e)(5) Gatherings subject to this subsection include advisory committees or other multimember bodies created in writing or by the initiative of, or otherwise primarily formed or existing to serve as a non-governmental advisor to, a member of a policy body, the Mayor, the City Administrator, a department head, or any elective officer, and social, recreational or~~



ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited. This subsection shall not apply to a committee which consists solely of employees of the City and County of San Francisco.

~~(6) — Gatherings defined in section 67.3(c) subdivision (5) may hold closed sessions under circumstances allowed by this Article.~~

~~(f)(b)~~ To the extent not inconsistent with state or federal law, a policy body shall cause to be included ~~include~~ in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity ~~to address~~ that addresses or otherwise takes up any matter relating to the property or its government related activities on the property, or performance under the contract or grant, be conducted as provided under this section ~~in Subdivision (a) of this section~~. Records made available to the governing board relating to such matters shall be likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as demonstrated in writing to such governing board.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

**SECTION 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT.**

All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this Article ~~article~~. In case of inconsistent requirements under the Brown Act and this article, the requirement which would result in greater or more expedited public access shall apply.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.6. POLICY BODIES: CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS.**

(a) Each policy body ~~, except for advisory bodies,~~ shall establish by resolution or motion the time and place for holding regular meetings.

~~(b) — Unless otherwise required by state or federal law or necessary to inspect real property or personal property which cannot be conveniently brought within the territory of the City and County of San Francisco or to meet with residents residing on property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents, all meetings of its policy bodies shall be held within the City and County of San Francisco.~~

~~(b)(e)~~ If a regular meeting would otherwise fall on a holiday, it shall instead be held on the next business day, unless otherwise rescheduled in advance. If a meeting must be canceled, continued or rescheduled for any reason, notice of such change shall be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in Section 67.6(c), and mailed notice if sufficient time permits.

~~(c)(d)~~ If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet at the regular meeting place, meetings may be held for the duration of the emergency at some other place specified by the policy body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Government Code Section 54956. Reasonable attempts shall be made to contact others regarding the change in meeting location.

~~(d)(e)~~ Meetings of ~~passive meeting bodies as specified in Section 67.3(d) 67.6(d)(4) of this article~~ shall be preceded by notice delivered personally or by mail, e-mail, or facsimile as

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~~reasonably requested at least three (3) business days 72 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting.~~ If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. ~~In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this article in the place used by the policy body which it advises, is required.~~

~~(e)(f)~~ Special meetings of any policy body ~~, including advisory bodies that choose to establish regular meeting times,~~ may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering ~~personally or by mail~~ written notice to each member of such policy body and the local media who have requested written notice of special meetings in writing. Such notice ~~of a special meeting shall be delivered~~ personally or by mail, e-mail, or facsimile as requested so that it is delivered as described in (e) at least three (3) business days 72 hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the presiding officer or secretary of the body or commission a written waiver of notice. ~~Such waiver may be given by telegram.~~ Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the notice of the special meeting; further provided that the notice of the special meeting of the policy body shall be given at least ten (10) calendar 15 days prior to said special meeting

being held at an alternate location. This provision shall not apply where the alternate alternative meeting location is located within the same building as the regular meeting place.

(f) Unless otherwise required by state or federal law or necessary to inspect real property or personal property that cannot be conveniently brought within the territory of the City and County of San Francisco or to meet with residents of property owned by the City or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents, all meetings of policy bodies shall be held within the City and County of San Francisco.

~~(g) If a meeting must be canceled, continued or rescheduled for any reason, notice of such change shall be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in section 67.7(c), and mailed notice if sufficient time permits.~~

(g) The initial meeting of a newly established policy body shall be considered a regular meeting and notice of the time and location of the meeting shall be given at least ten (10) calendar days prior to said initial meeting being held, and delivered personally or by mail, e-mail, or facsimile as requested.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.7. AGENDA REQUIREMENTS; REGULAR FOR MEETINGS OF POLICY BODIES.**

(a) At least three (3) business days ~~72 hours~~ before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify whether ~~for~~ each item of business ~~the proposed~~ is subject to possible action or a statement ~~the item is for discussion~~ only. If a specific action is proposed or contemplated, it shall be included in the agenda item.

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~~In addition, a policy body shall post a current agenda on its Internet site at least 72 hours before a regular meeting.~~

(b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description shall ~~should~~ be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.

(c) ~~The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.~~

(d) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.

(e) Notwithstanding Subdivision (d), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety.

(2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members

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present, that (A)(i) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or (ii) or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was on an agenda posted pursuant to subdivision (a) for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken. In addition, notice of the continuation shall be posted with the agenda of the prior meeting specifying that a particular agenda item was continued to that meeting.

(f) ~~Each board and commission and policy body established under enumerated in the Charter shall ensure that agendas for regular and special meetings are made available to speech and hearing impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight impaired persons through Braille or enlarged type and other material related to or agendized for its meetings are accessible to persons with disabilities. Upon request, materials shall be made available in alternative formats. Requests should be made to the Clerk of the Board of Supervisors or secretary of the policy body at least two (2) business days prior to the meeting. Requests for material in alternative formats made less than two (2) business days prior to the meeting shall be met when possible. All policy bodies and passive meeting bodies shall comply with the guidelines and recommendations of the Mayor's Office of Disabilities Accessible Public Event Checklist.~~

(g) Each policy body shall ensure that notices and agendas for regular and special meetings shall include the following notice:

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This Ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE COMMISSION ADMINISTRATORSUNSHINE ORDINANCE TASK FORCE.

(h) Each agenda of a policy body covered by this Sunshine Ordinance shall include the address, area code and telephone number, facsimile fax number, e-mail address, and a contact person person's name for the Sunshine Commission Sunshine Ordinance Task Force. Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each agenda. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 185-96, App. 5/8/96; Proposition G, 11/2/99)

(i) Each agenda of a policy body shall state that members of the public may submit statements and/or comments regarding any item on such body's meeting agenda; those statements or comments shall become a public record, regardless of whether their authors are present when the item at issue is discussed. The policy body may review and consider those statements or comments if received before or during the discussion of the item.

Statements or comments received within ten business days after the meeting shall be included in the public record with a notation as to when they were received.

(Added by Ord. 185-96, App. 5/8/96; amended by Proposition G, 11/2/99)

**Section 67.7-1. PUBLIC NOTICE REQUIREMENTS.**

(a) Any public notice that is mailed, posted, or published by a City department, board, agency, or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English.

(b) The notice shall ~~should~~ inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity, and a telephone contact for residents who have questions.

(c) If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record, and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name, ~~and~~ address, fascimile and e-mail address of the person or persons to whom those written comments should be submitted.

(Added by Ord. 185-96, App. 5/8/96; amended by Proposition G, 11/2/99)

**SECTION 67.8. AGENDA DISCLOSURES: CLOSED SESSIONS.**



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In addition to meeting requirements for closed session agendas provided in the Brown Act, Government Code Section 54954.5, any agenda of a policy body shall specify and disclose the nature of any closed session by providing all of the following information:

(a) With respect to every item of business to be discussed in closed session pursuant to Government Code section 54956.9 (a), each agenda item that involves existing litigation shall identify the court, case number, and date the case was filed on the written agenda.

~~(b)(a) In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54956 shall specify and disclose the nature of any closed sessions by providing all of the following information:~~With respect to every item of business to be discussed in closed session pursuant to Government Code section 54957:

~~(1) With respect to a closed session held pursuant to Government Code Section 54956.7:~~

~~LICENSE/PERMIT DETERMINATION:~~

~~applicant(s)~~

~~The space shall be used to specify the number of persons whose applications are to be reviewed.~~

~~(2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:~~

~~CONFERENCE WITH REAL PROPERTY NEGOTIATOR~~

~~Property:~~

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Person(s) negotiating:

Under negotiation:

Price: Terms of payment: Both:

~~The space under "Property" shall be used to list an address, including cross streets where applicable, or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space under "Person(s) negotiating" shall be used to identify the person or persons with whom negotiations concerning that property are in progress. The spaces under "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed.~~

~~(3) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.9, either:~~

~~CONFERENCE WITH LEGAL COUNSEL~~

~~Existing litigation:~~

~~Unspecified to protect service of process~~

~~Unspecified to protect settlement posture~~

~~or:~~

~~CONFERENCE WITH LEGAL COUNSEL~~

~~Anticipated litigation:~~

~~As defendant As plaintiff~~

~~The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to subdivision (a) of Government Code Section 54956.9, including the~~

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~~case name, court, and case number, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to subdivision (b) or (c) of Section 54956.9, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff respectively. If more than one instance of anticipated litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As defendant" or "As plaintiff" spaces or both as appropriate.~~

~~(4) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957, either:~~

~~THREAT TO PUBLIC SERVICES OR FACILITIES~~

~~Name, title and agency of law enforcement officer(s) to be conferred with:~~

~~or:~~

~~PUBLIC EMPLOYEE APPOINTMENT/HIRING~~

~~Title/description of position(s) to be filled:~~

~~PUBLIC EMPLOYEE PERFORMANCE EVALUATION~~

~~Position and, in the case of a routine evaluation, name of employee(s) being evaluated:~~

~~or:~~

~~PUBLIC EMPLOYEE DISMISSAL/DISCIPLINE/RELEASE~~

~~Number of employees affected:~~

~~or:~~

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~~(c)(5)~~\_\_\_\_ With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957.6, either:

CONFERENCE WITH NEGOTIATOR

COLLECTIVE BARGAINING

Name and title of City's negotiator:

Organization(s) representing:

Police officers, firefighters and airport police

Transit Workers

Nurses

Miscellaneous Employees

Anticipated issue(s) under negotiation:

Wages

Hours

Benefits

Working Conditions

Other (specify if known)

All

Where renegotiating a memorandum of understanding or negotiating a successor memorandum of understanding, the name of the memorandum of understanding:

In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear

to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.8-1. ADDITIONAL REQUIREMENTS FOR CLOSED SESSIONS.**

~~(a) All closed sessions of any policy body covered by this Ordinance shall be either audio recorded or audio and video recorded in their entirety and all such recordings shall be retained for at least TEN years, or permanently where technologically and economically feasible. Closed session recordings shall be made available whenever all rationales for closing the session are no longer applicable. Recordings of closed sessions of a policy body covered by this Ordinance, wherein the justification for the closed session is due to "anticipated litigation" shall be released to the public in accordance with any of the following provisions: TWO years after the meeting if no litigation is filed; UPON EXPIRATION of the statute of limitations for the anticipated litigation if no litigation is filed; as soon as the controversy leading to anticipated litigation is settled or concluded.~~

~~(b) Each agenda item for a policy body covered by this ordinance that involve existing litigation shall identify the court, case number, and date the case was filed on the written agenda. For each agenda item for a group covered by this ordinance that involves anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed.~~

(Added by Proposition G, 11/2/99)

**SECTION 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.**

(a) ~~Agendas of meetings, meeting packets, public records created by a department, or and any other records documents on file with the clerk or secretary of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public for inspection and copying at the office of the policy body at least 48 hours before the hearing. To the extent possible, such documents shall also be made available through the policy body's Internet site. However, this disclosure need not include an material exempt from public disclosure under this ordinance. Unless demonstrably unfeasible, these materials shall be made available on the policy body's web site, at least 48 hours prior to the meeting. Public review copies of the agenda and all related documents that constitute the meeting packet shall be made available at the meeting to the public in sufficient quantities commensurate with the anticipated number of people attending the hearing. The materials that are distributed at the hearing shall be clearly legible.~~

(b) ~~If any document subject to adoption, approval or award by a policy body is not available at least 48 hours before the meeting at which that document is scheduled to be adopted, approved or awarded and a member of the policy body requests that the matter be continued, the policy body must continue the item to a time not less than 48 hours after the document was made available. Nothing in this subsection shall prohibit the policy body from amending a document at a meeting.~~

(b) — ~~Records which are subject to disclosure under subdivision (a) and which are intended for distribution to a policy body prior to commencement of a public meeting shall be made available for public inspection and copying upon request prior to commencement of~~

~~such meeting, whether or not actually distributed to or received by the body at the time of the request.~~

~~(e) — Records which are subject to disclosure under subdivision (a) and which are distributed during a public meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of, and during, their discussion.~~

(c)(d) Records that which are intended for distribution or are distributed prior to or during subject to disclosure under subdivision (a) and which are distributed during their discussion a public meeting to members of a policy body shall be made available for public inspection immediately upon request or as soon thereafter as is practicable whether or not actually distributed to or received by the body at the time of the request.

~~(e) A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established pursuant to the procedure set forth in Section 67.28(d). Neither this section nor the California Public Records Act (Government Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body.~~

~~(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)~~

## **SECTION 67.10. CLOSED SESSIONS: PERMITTED TOPICS.**

A policy body may, but is not required to, hold closed sessions:

(a) With the California Attorney General, District Attorney, agency counsel, security consultant, Sheriff, or Chief of Police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities.

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(b) To consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. ~~The body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. If the employee, who is the subject of the discussion, requests a public hearing, the hearing shall be public.~~ The term "employee" as used in this section shall not include any elected official, member of a policy body or applicant for such a position, or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary.

(c) Notwithstanding section (b), an Executive Compensation Committee established pursuant to a Memorandum of Understanding with the Municipal Executives Association may meet in closed session when evaluating the performance of an individual officer or employee subject to that Memorandum of Understanding or when establishing performance goals for such an officer or employee where the setting of such goals requires discussion of that individual's performance.

(d) Based on advice of its legal counsel, and on a motion and vote in open session to assert the attorney-client privilege, to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would likely and unavoidably prejudice the position of the City in that litigation. Litigation shall be considered pending when any of the following circumstances exist:



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(1) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the City is a party, has been initiated formally; or,

(2) A point has been reached where, in the opinion of the policy body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City, or the body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the body has decided to initiate or is deciding whether to initiate litigation.

(3) A closed session may not be held under this section to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise.

(e) With the City's designated representatives regarding matters within the scope of collective bargaining or meeting and conferring with public employee organizations when a policy body has authority over such matters.

(1) Such closed sessions shall be for the purpose of reviewing the City's position and instructing its designated representatives and may take place solely prior to and during active consultations and discussions between the City's designated representatives and the representatives of employee organizations or the unrepresented employees. A policy body shall not discuss compensation or other contractual matters in closed session with one or more employees directly interested in the outcome of the negotiations.

(2) In addition to the closed sessions authorized by subsection 67.10(e)(1), a policy body subject to Government Code Section 3501, as amended at any time or any of its successor provisions thereto, may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Section 3504.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 37-98, App. 1/23/98; Proposition G, 11/2/99)

**SECTION 67.11. STATEMENT OF REASONS FOR CLOSED SESSIONS.**

(a) Prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and shall cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the policy body may consider only those matters covered in its statement. In the case of regular and special meetings, the statement shall be made in the form of the agenda disclosures and specifications required by Section 67.8 of this article. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 67.8 of this article, as part of the notice provided for the meeting.

(b) In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same disclosures and specifications as if the item had been included in the agenda pursuant to Section 67.8 of this article. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.12. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS.**

(a) After every closed session, a policy body may in its discretion and in the public interest, disclose to the public any portion of its discussion that is not confidential under federal or state law, the Charter, or non-waivable privilege. The body shall, by motion and vote in open session, elect either to disclose no information or to disclose the information that a

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majority deems to be in the public interest. The disclosure shall be made through the presiding officer of the body or such other person, present in the closed session, whom he or she designates to convey the information.

(b) A policy body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Real Property Negotiations: Approval given to a policy body's negotiator concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the policy body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval rests with another party to the negotiations, the body shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in subdivision (b) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both.

(2) Litigation: Direction or approval given to the body's legal counsel to prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation pursuant to Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the City's intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the City, any existing

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claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative.

(3) Settlement: A policy body shall neither solicit nor agree to any term in a settlement which would preclude the release of the text of the settlement itself and any related documentation communicated to or received from the adverse party or parties. Any written settlement agreement and any documents attached to or referenced in the settlement agreement shall be made publicly available at least 10 calendar days before the meeting of the policy body at which the settlement is to be approved to the extent that the settlement would commit the City or a department thereof to adopting, modifying, or discontinuing an existing policy, practice or program or ~~otherwise acting other than to pay an amount of money less than \$50,000 or more~~. The agenda for any meeting in which a settlement subject to this section is discussed shall identify the names of the parties, the case number, the court, and the material terms of the settlement. Where the disclosure of documents in a litigation matter that has been settled could be detrimental to the City's interest in pending litigation arising from the same facts or incident and involving a party not a party to or otherwise aware of the settlement, the documents required to be disclosed by subdivision (b) of this section need not be disclosed until the other case is settled or otherwise finally concluded.

(4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any termination of employment at the will of the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be

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immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclosed upon approval by the body.

(5) Collective Bargaining: Any collectively bargained agreement shall be made publicly available at least 15 calendar days before the meeting of the policy body to which the agreement is to be reported.

(c) Reports required to be made immediately may be made orally or in writing, but shall be supported by copies of any contracts, settlement agreements, or other documents related to the transaction that were finally approved or adopted in the closed session and that embody the information required to be disclosed immediately shall be provided to any person who has made a written request regarding that item following the posting of the agenda, or who has made a standing request for all such documentation as part of a request for notice of meetings pursuant to Government Code Sections 54954.1 or 54956.

(d) A written summary of the information required to be immediately reported pursuant to this section, or documents embodying that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

(e) For each agenda item of a policy body covered by this Ordinance that involves anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed.

(Added by Proposition G, 11/2/99) [Moved from 67.8-1 (b)]

(f) Review of Closed Session Justifications

No later than 30 calendar days following the effective date of this subsection.

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(1) For each closed session, each public body shall maintain a record of the date and time of the closed session, the justification for the closed session and the subject matter discussed in closed session, as well as all minutes, recordings or other records related to the closed session.

(2) At least quarterly, a public body shall review the records of prior closed meetings. The review shall determine whether any part of the minutes, recordings or other records withheld from public access can now be made accessible to the public. If the public body determines that any part of the previously withheld materials can now be disclosed, it shall do so, and identify in the body's minutes past closed session materials that are now disclosable. Upon completion of a review, the body shall adopt a resolution stating that the body has conducted the review and that all information from closed meetings that can be made available to the public, as of the date of the review, has been made available. The resolution shall also state, as precisely as possible, when and under what circumstances any remaining withheld materials may be disclosed to the public.

(3) The Sunshine Commission is authorized to adopt any rules and regulations necessary to implement this section.

**SECTION 67.13. BARRIERS TO ATTENDANCE PROHIBITED.**

(a) No policy body shall conduct any meeting, conference or other function in any facility or in a manner that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with ~~physical~~ disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the Board of Supervisors, a board or commission enumerated in the Charter, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in

the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

(b) All policy bodies ~~Each board and commission enumerated in the Charter shall provide sign language interpreters, assisted listening devices, or note-takers, or other needed accommodations for persons with disabilities at each regular meeting, provided that a request for such services is communicated to the secretary or clerk of the policy body, board or commission at least 48 hours before the meeting, except for Monday meetings, for which the deadline shall be 4 p.m. of the last business day of the preceding week. When requests for such services are made by a member or members of the public at least 72 hours prior to the meeting, the policy body shall comply with the request. If the request is made less than 72 hours before the meeting, the policy body should attempt to comply with the request, if possible.~~

(c) All policy bodies ~~Each board and commission enumerated in the Charter shall ensure that accessible seating for persons with disabilities, including those using wheelchairs, is made available for each regular and special meeting.~~

(d) All policy bodies ~~Each board and commission enumerated in the Charter shall include on the agenda for each regular and special meeting the following statement: "In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals."~~

(e) All policy bodies ~~The Board of Supervisors shall seek to provide translators at each of their its regular meetings and all meetings of their its committees for each language requested, where the translation is necessary to enable members of the public San Francisco~~

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residents with limited English proficiency to participate in the proceedings provided that a request for such translation services is communicated to the policy body Clerk of the Board of Supervisors at least forty-eight (48) hours before the meeting. For meetings on a Monday or a Tuesday, the request must be made by noon of the last business day of the preceding week. The policy body Clerk of the Board of Supervisors shall first solicit volunteers from the ranks of City employees and/or from the community to serve as translators. If volunteers are not available, the policy body Clerk of the Board of Supervisors may next solicit translators from non-profit agencies, which may be compensated. If these options do not provide the necessary translation services, the policy body Clerk may employ professional translators. The unavailability of a translator shall not affect the ability of the policy body Board of Supervisors or its committees to deliberate or vote upon any matter presented to them. ~~In any calendar year in which the costs to the City for providing translator services under this subsection exceeds \$20,000, the Board of Supervisors shall, as soon as possible thereafter, review the provisions of this subsection.~~

(f) Each policy body shall, within six (6) months of passage of this amended Ordinance, broadcast all meetings held in City Hall on the San Francisco Government TV channel (or its successor) or on the City's website via real-time audio streaming and/or real-time audio/video streaming. All other policy bodies are encouraged to broadcast their meetings similarly as feasible.

(g) All policy bodies and passive meeting bodies shall comply with the guidelines and recommendations of the Mayor's Office of Disabilities Accessible Public Event Checklist.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 482-96, App. 12/20/96; Proposition G, 11/2/99)

**SECTION 67.14. VIDEO AND AUDIO RECORDING, FILMING AND STILL PHOTOGRAPHY.**



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(a) Any person attending an open and public meeting of a policy body or passive meeting body shall have the right to record, ~~the proceedings with an audio, or video and/or digital recorder or a still or motion picture camera, or as well as,~~ to broadcast the proceedings, in the absence of a reasonable finding of the policy body or passive meeting body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

(b) ~~All policy bodies~~ Each board and commission enumerated in the Charter shall audio record each regular and special meeting, including closed sessions. Each such audio recording, and any other audio or video recording of a meeting of any other policy body made at the direction of the policy body, shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.). These recordings shall be kept indefinitely by the City, and shall not be erased or destroyed unless the recordings are being transferred into a different format for public access, archival or retrieval requirements. and shall not be erased or destroyed. Inspection and playback of any such recording shall be provided without charge on an appropriate play back device made available by the City; copies of any such recordings shall be provided upon request and payment for the actual cost of the medium on which the copy is recorded. Requests shall be made through the department, board, commission, task force, or committee whose meeting is recorded. Requests shall be completed in the order of receipt, and no additional charges shall be assessed for expedited service.

(c) Closed session recordings, made pursuant to Section 67.14(b), shall be made available whenever all rationales for closing the session are no longer applicable. Audio recordings of closed sessions of bodies covered by this Ordinance wherein the justification for the closed session is "anticipated litigation" shall be released to the public in accordance with any of the following provisions: two years after the meeting if no litigation is filed; upon

expiration of the statute of limitations for the anticipated litigation if no litigation is filed; as soon as the controversy leading to anticipated litigation is settled or concluded.

(d)(e) Every City policy body, agency or department shall audio or video record every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed, unless the recordings are being transferred into a different format for public access retrieval or archival requirements. The City shall make such audio or video recording available in digital form at a centralized location on the City's web site (www.sfgov.org) within seventy-two (72) hours of the date of the meeting or hearing and for a period of at least two years after the date of the meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (d)(e) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in subsection (c) Section 67.8-4 and for recording meetings of policy bodies, boards and commissions enumerated in the Charter as stated in subsection (b) above.

(Added by Ord. 265-93, App. 8/18/93; amended Proposition G, 11/2/99; Ord. 80-08, File No. 071596)

**SECTION 67.15. PUBLIC TESTIMONY.**

(a) Every agenda for regular and special meetings shall provide an opportunity for members of the public to directly address a policy body on any items of interest to the public

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that ~~is~~ are within the policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. This provision shall apply to all meetings of the Board of Supervisors and its committees. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the policy body.

(b) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Supervisors on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board. However, nothing in this subsection is intended to exempt Board of Supervisors committees from the general public comment requirements under subsection (a).

(c) Time and Order of Public Speakers

A policy body shall adopt reasonable regulations to ensure that the intent of subsections (a) and (b) are carried out, including, but not limited to the following:-

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~~(1) regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard at least once for up to a minimum of three (3) minutes per agenda item.~~

~~(2) If the chair of a meeting finds that a large number of speakers wish to speak on a particular item, the chair may reduce each speaker's time, but not to less than two (2) minutes per speaker. The chair shall announce any modification of the three-minute minimum before public testimony on that item commences. The chair has discretion to provide extra time for those who need accommodation for an interpreter or a disability. Time limits shall be applied uniformly consistently to members of the public wishing to testify.~~

~~(3) The Chair May Allow a Designated Speaker(s)~~

~~(A) If allowed by the chair, members of the public may, for any item agendized for adoption or discussion by any policy body, authorize a designated speaker or speakers, who will present the arguments regarding an issue for adoption for up to fifteen (15) minutes, or for a time equal to that allowed to the department or presenting party, excluding the time required to answer questions posed by the body. The designated speaker(s) and the department or other presenting party for an item to be adopted shall be allowed to speak in summary for five (5) minutes directly prior to the vote by a policy body.~~

~~(B) It shall be the responsibility of the designated speaker to file, with the clerk or secretary, a Request to Authorize a Designated Speaker prior to the commencement of an item and to guarantee that at least six (6) members of the public, present and prepared to speak, have designated their allotted speaking time to the requester.~~

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(C) The chair shall, by show of hands, determine that a designated speaker has the consent of six (6) members of the public who are present and prepared, to speak on an issue, and shall announce the designated speaker(s).

(4) Rules for the Order of Speakers.

A chair shall accept public testimony in a fair and evenhanded way, without manipulation in the order of speakers, absent good cause. Each policy body shall adopt regulations for the order of speaking, which shall include but not be limited to the following:

(A) Speaker cards, when available and submitted, shall be used in the order of submission to designate the order of speakers, except that the chair may alternate “pro” and “con” speakers if they are designated on the forms.

(B) Members of the public who have not submitted speakers cards may form a line to speak and shall be called upon in the order of appearance at the front of the line, except that the chair may allow disabled or the elderly and frail members of the public to speak out of turn.

(C) If a meeting is recessed, adjourned or the chair has ordered a break, the order of speakers from the previous session shall be maintained.

(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

(e) To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer.

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(f) Members of the public shall have access to all audio-visual equipment used by a department or policy body for presentations made to that policy body consistent with time limits provided in subsection (c). To the extent feasible, prior notification in the agenda or public notice that a presentation will be made using audio/visual equipment or technology shall be provided, listing the specific equipment.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.16. MINUTES.**

(a) The clerk or secretary of each board and commission enumerated in the Charter all policy bodies shall record the minutes for each regular and special meeting of those bodies the board or commission.

(b) The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, time of each member's arrival if after commencement of the meeting and the time of each member's departure if prior to the adjournment of the meeting, the roll call vote on each matter considered at the meeting, the time, based on a meeting-start time of 0:00, that the policy body began and ended discussion and action on each item on the agenda, the time the policy body board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may submit supply a brief-written comments summary of their comments which to be attached to the minutes and noted in the item. that shall, if If no more than one hundred fifty (150) words, the comments shall be included in the body of the minutes

in the section dealing with that item or matter. The minutes shall also include the text of any resolution adopted by or modified by a policy body within the body of the minutes or as an attachment.

(c) The draft minutes and any attachments thereto from of each meeting shall be posted on the policy body's website and be available for inspection and copying upon request no later than five (5) business ~~ten working~~ days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than five (5) business ~~ten working~~ days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in Braille ~~or increased type-size~~ alternative formats for persons with disabilities.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.17. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES.**

Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of state or federal law or of this ordinance. Every member of a policy body shall be allowed to speak freely on any issue before the body subject only to time limits, which shall be imposed on all members equally. The release of specific factual information made confidential by state or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.18. PROHIBITING DISRUPTIVE USE OF CELL PHONES, PAGERS, AND SIMILAR SOUND-PRODUCING ELECTRICAL DEVICES AT AND DURING PUBLIC MEETINGS.**

At and during a public meeting of any policy body, the ringing and use of cell phones, pages and similar sound-producing electronic devices shall be prohibited in the audible function. The chair of any public meeting that is disrupted may order the removal from the meeting room of any person(s) responsible for the ringing or audible use of a cell phone, pager, or other similar sound-producing electronic device. The chair may allow an expelled person to return to the public meeting following an agreement by the expelled person to comply with the provisions of this section. A warning of the provisions of this section shall be printed on all meeting agendas and shall be explained at the beginning of each public meeting by the chair. [Moved from 67.A.1]

**SECTION 67.19. SUPERVISOR OF PUBLIC FORUMS**

- (a) Within three months of the enactment of this provision, the City Attorney's office shall establish a Supervisor of Public Forums position, which can at the discretion of the City Attorney be combined with the existing Supervisor of Public Records position mandated by Section 67.20 of the Ordinance.
- (b) Any person may petition the Supervisor of Public Forums to determine whether a body is a policy body or passive meeting body or whether a policy body or passive meeting body has violated any provision of Article II, Public Access to Meetings, of this Ordinance. The Supervisor of Public Forums shall inform the petitioner, as soon as possible and within seven (7) business days, of the determination on whether a



violation occurred. In reaching this determination, the Supervisor of Public Forums shall immediately order the policy body or passive meeting body to correct such violation as soon as possible, but no later than at its next meeting. If the policy body or passive meeting body fails to comply with any such order, the Supervisor of Public Forums shall notify the San Francisco Ethics Commission, Board of Supervisors, District Attorney, or the California Attorney General, who shall take whatever measures they deem necessary and appropriate to ensure compliance with the provision of this Ordinance. The Supervisor of Public Forums shall copy the Sunshine Commission on all determinations and actions on petitions under this subsection.

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**ARTICLE III**

**PUBLIC INFORMATION AND PUBLIC RECORDS**

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- Sec. 67.20. Definitions.
- Sec. 67.21. Process for Gaining Access to Public Information Records; Administrative Appeals.
- Sec. 67.22. Immediacy of Response; Immediate Disclosure Request.
- Sec. 67.23. Production on Incremental or "Rolling Basis".
- Sec. 67.~~24~~22. Release of Oral Public Information.
- Sec. 67.~~25~~23. Public Review File - Policy Body Communications.
- Sec. 67.~~26~~24. Public Information that Must Be Disclosed.
- Sec. 67.27. Withholding Kept to a Minimum.
- Sec. 67.28. Prohibited Basis for Withholding.
- Sec. 67.~~29~~27. Justification of Withholding.
- Sec. 67.~~30~~28. Fees for Duplication.
- Sec. 67.31. Minimum Standards; Electronic Records; Computer Systems; Web Postings.
- Sec. 67.~~33~~29. Records and Correspondence Shall be Maintained and Shall Survive Tenure and Transition of Officials.
- Sec. 67.~~33-329-5~~. Searchable Meeting Logs Of Elected Officials, Department Heads Calendars of Certain Officials.

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Sec. 67.~~32~~29. Index to Records.

Sec. 67.~~33-229-4~~. Lobbyist On Behalf of the City.

Sec. 67.~~33-429-6~~. Sources of Outside Funding.

~~Sec. 67.25. Immediacy of Response.~~

~~Sec. 67.21-1. Policy Regarding Use and Purchase of Computer Systems.~~

~~Sec. 67.29-2. Internet Access/World Wide Web Minimum Standards.~~

~~Sec. 67.29-3.~~

~~Sec. 67.29-7. Correspondence and Records Shall Be Maintained.~~

**SECTION 67.20. DEFINITIONS.**

Whenever in this Ordinance article the following words or phrases are used, they shall mean:

(a) "Department" shall mean a department of the City and County of San Francisco.

(b) "Public information ~~Information~~" shall mean the content of "public records" as defined in the California Public Records Act (Government Code Section 6252), whether provided in documentary form or in an oral communication. "Public information ~~Information~~" shall not include "computer software" developed by the City and County of San Francisco as defined in the California Public Records Act (Government Code Section 6254.9).

(c) "Public records" or "records" shall have the meaning given "Public Records" in the California Public Records Act (Government Code Section 6252) and shall include all

stored, archived or back-up copies of original public records, irrespective of the media on which or the form in which copied.

(d)(e) "Supervisor of Public Records" shall mean the City Attorney or a Deputy City Attorney so designated.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 375, App. 9/30/96; Proposition G, 11/2/99)

**SECTION 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC INFORMATION RECORDS; ADMINISTRATIVE APPEALS.**

(a) Every person having possession custody of any public record or public information, as defined herein, ~~(hereinafter referred to as a custodian of a public record)~~ shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person, ~~and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.~~

(a) Every City department and policy body subject to the provisions of this Ordinance shall also designate at least one employee within that department or policy body as its custodian of records ("custodian of records") and shall ensure that, at all times during business hours, at least one member of its staff is available to perform the duties of the custodian of records. Each custodian of records shall have written procedures and forms to streamline requests and assist members of the public who request public records or information. The custodian of records shall have identified the departmental deputies to fulfill these responsibilities when the custodian of records is unavailable. All department heads

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establish and implement policies shall ensure that sufficient staff are assigned to respond to public records requests by the statutory deadline.

(b) ~~A custodian request for inspection or copying of a public records may shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered be submitted to the office department, policy body or of the custodian of records by the requester orally or in writing by fax, postal or hand delivery, or e-mail or other means. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.~~

(c) A custodian of records shall ensure that, as soon as possible but within seven (7) business days following the receipt of a request, a department, policy body or custodian of records shall comply with the request by doing the following:

(1) If the requester seeks a copy of public records, one copy thereof shall be provided upon payment of a reasonable copying charge, not to exceed the actual cost of physical duplication or ten (10) cents per page, whichever is less:

(2) If the requester seeks to inspect public records, a reasonable opportunity for the requester to review the records shall be provided during normal and reasonable business hours, without unreasonable delay and without requiring an appointment, or at another time convenient to both the requester and the custodian of records. In no event shall the custodian of records be required to set the records aside for review for more than ten (10) business days, unless agreed to between the requester and the custodian of records.

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(3) If the department, policy body or custodian of records believes the record or information requested is, in whole or in part, exempt from disclosure, the withholding or redaction shall be justified in writing pursuant to Section 67.29 of this Ordinance.

(4) An oral request for information shall be treated as a written request. Oral requests that are not fulfilled by an employee immediately shall be documented as to date, time, place and requester by the department, policy body, or custodian of records in the public record log book of oral public requests maintained by the department, policy body, or custodian of records.

~~(d)(e)~~ A custodian of a public records shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the department or policy body, custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within five (5) business seven-days following receipt of a request, a statement as to the existence, amount or count quantity, form, and nature of records, and physical or electronic location of records relating to a particular subject matter or questions with enough specificity to enable a requester to identify those records. ~~in order to make a request under (b).~~ A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person. If the requested record or information is not in the possession, custody or control of the department or policy body, the request shall be directed to the department, policy body or staff person with notification to the requester of that action.

(e) A person seeking any records or information under this Ordinance need not state his or her reason for making the request or any use to which the information might be put, and requesters shall not be routinely asked to make such a disclosure. However, where a requested record contains information, the majority of which is exempt from disclosure

under the California Public Records Act (Government Code Section 6254) or this Ordinance, the department, policy body or custodian of records may inform the requester of the nature and extent of the exempt and non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information that might involve less redaction or, if necessary, to otherwise prepare a response to the request.

(f)(d) If the custodian ~~refuses, fails to comply, or incompletely complies with a request~~ described in subsection (b), the person making the request may petition the Supervisor of Public Records ~~supervisor of records~~ for a determination to determine whether the record requested is disclosable public in whole or in part. The Supervisor of Public Records ~~supervisor of records~~ shall inform the petitioner of the determination as soon as possible and within seven (7) business ~~10 days,~~ of its determination whether the record requested, or any part of the record requested, is public. ~~Where requested by the petition, and where otherwise desirable, this~~ In reaching this determination, the Supervisor of Public Records shall conduct an independent review, taking into account prior rulings, if any, of the Sunshine Commission on the issue. This determination shall be in writing. Upon determining ~~the determination by the supervisor of records~~ that the record is disclosable public, in whole or in part, the Supervisor of Public Records ~~supervisor of records~~ shall immediately order the custodian of the public record to comply with the person's request. If the custodian fails to comply with any such order within five (5) business days, the Supervisor of Public Records shall notify the ~~district attorney or the attorney general~~ San Francisco Ethics Commission, Board of Supervisors, District Attorney, and/or the California Attorney General, who shall take whatever measure(s) ~~she or he deems~~ they deem necessary and appropriate to ensure ~~insure~~ compliance with the provisions of this Ordinance ~~ordinance~~. The Supervisor of Public Records shall copy the Sunshine Commission on all determinations of actions on petitions under this subsection.

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~~(g)(e) If an official, department head, policy body executive or any policy body member, or a custodian of records~~ If the ~~custodian refuses, fails to comply, or incompletely complies with a request described in subsection (b) above or if a petition is denied or not timely acted on by the Supervisor of Public Records~~ ~~supervisor of records~~, the person making the request may petition the ~~Sunshine Commission~~ ~~Sunshine Task Force~~ to determine for a determination whether the record requested exists and is disclosable public, in whole or in part, and if the determination is that records exist and are disclosable, for an order directing the respondent to disclose them within three (3) business days. ~~The Task Force shall inform the petitioner, as soon as possible and within 2 days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the Sunshine Task Force shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Task Force shall the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this ordinance. The Board of Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow the Sunshine Task Force to fulfill its duties under this provision. Where requested by the petition, the Sunshine Task Force may conduct a public hearing concerning the records request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested.~~

~~(f) — The administrative remedy provided under this article shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer~~



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~~or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the superior court shall have jurisdiction to order compliance.~~

~~(g) — In any court proceeding pursuant to this article there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.~~

~~(h) — On at least an annual basis, and as otherwise requested by the Sunshine Task Force, the supervisor of public records shall prepare a tally and report of every petition brought before it for access to records since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the custodian of those records, the ruling of the supervisor of public records, whether any ruling was overturned by a court and whether orders given to custodians of public records were followed. The report shall also summarize any court actions during that period regarding petitions the Supervisor has decided. At the request of the Sunshine Ordinance Task Force, the report shall also include copies of all rulings made by the supervisor of public records and all opinions issued.~~

~~(i) — The San Francisco City Attorney's office shall act to protect and secure the rights of the people of San Francisco to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for purposes of denying access to the public. The City Attorney may publish legal opinions in response to a request from any person as to whether a record or information is public. All communications with the City Attorney's Office with regard to this ordinance, including petitions, requests for opinion, and opinions shall be public records.~~

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~~(j)~~ — Notwithstanding the provisions of this section, the City Attorney may defend the City or a City Employee in litigation under this ordinance that is actually filed in court to any extent required by the City Charter or California Law.

~~(h)~~~~(k)~~ Release of documentary public records information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in particulars to the extent not addressed by this Ordinance ordinance and in accordance with the enhanced disclosure requirements provided in this Ordinance ordinance.

~~(h)~~~~(i)~~ Inspection and copying of documentary public records information stored in electronic form shall be made available to the person requesting the information in any form requested in which the information is held by the department or policy body, any format that has been used by the department or policy body to create copies for its own use or for provision to other agencies, or which is available to or easily generated by the department or policy body, its officers or employees, including but not limited to disk, tape, printout or at a computer monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public records information on a computer monitor need not be allowed where the information sought is necessarily and inseparably ~~unseparably~~ intertwined with information not subject to disclosure under this Ordinance ordinance. Nothing in this section shall require a department to create a computer program or application reprogram a computer to that would respond to a request for information or take any action to release information where the release of that information would violate a licensing agreement or copyright law that would jeopardize or compromise the security or integrity of the original record or of any third-party proprietary software in which it is maintained.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 253-96, App. 6/19/96; Proposition G, 11/2/99)

(j) Members of the public have the right to view and receive searchable copies of electronic records in any format in which the records were produced or used in the conduct of the City's business. Inspection and copying of public information stored in electronic form shall be made available to the person requesting the information in any form requested that is available to or easily generated by the department, its officers or employees in any form at a charge no greater than the cost of the media on which it is duplicated. Metadata contained in an electronic record are officially deemed part of the public record and shall be treated as such; when such metadata include both disclosable and non-disclosable portions, the entity responding to an electronic-record request shall edit out the non-disclosable portion(s) under a legally recognized and cited protocol, and shall include the disclosable portion(s) in the record provided to the requester, unless such editing is proven impossible. Inspection of public information on a computer monitor need not be allowed where the information sought is necessarily and inseparably intertwined with information not subject to disclosure under this Ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

**~~SEC. 67.21-1. POLICY REGARDING USE AND PURCHASE OF COMPUTER SYSTEMS.~~**

~~(a) It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public~~

~~under this section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks such as the Internet.~~

~~(b) Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:~~

~~(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.~~

~~(2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format.~~

~~(3) Implementing a system that permits making records available through the largest non-profit, non-proprietary public computer network, consistent with the requirement for security of information.~~

~~(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 253-96, App. 6/19/96; Proposition G, 11/2/99)~~

**SECTION 67.22. IMMEDIACY OF RESPONSE; IMMEDIATE DISCLOSURE REQUEST**

(a) Maximum deadlines provided in this Ordinance are appropriate for more labor-intensive requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.

(b) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of fourteen (14) days as provided in Government Code Section 6253(c)(1), the

requester shall be notified as required by the close of business on the business day following the request. The requester shall be notified as required by the close of business of the length of extension, the reason for the extension, and a summary of the search method and results conducted to date justifying the extension.

(c) Notwithstanding the seven (7) business day period for response to a request permitted in section 67.21(c) of this Ordinance, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request if the words “Immediate Disclosure Request” are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted, and if the request is received by 4 PM. Immediate Disclosure Requests are appropriate for records that are readily identifiable and maintained by the department or policy body in its active files. Requests to inspect or for copies of documents that must be gathered from multiple sources or offices, or document maintained in a remote storage facility are not appropriate for Immediate Disclosure Requests. However, departments and policy bodies must still acknowledge to requesters the receipt of such requests, by the close of the business day following receipt of the requests.

**SECTION 67.23. PRODUCTION ON INCREMENTAL OR “ROLLING” BASIS**

In response to a request under this Ordinance, the department, policy body, or custodian of records shall produce any and all responsive public records as soon as reasonably possible, and where requested, on an incremental or “rolling” basis such that responsive records are provided as soon as possible by the end of the same business day that they are reviewed and collected. This section is intended to prohibit the withholding of public records that are responsive to a request until all potentially responsive documents have

been reviewed and collected. Failure to comply with this provision is a violation of this Ordinance.

**SECTION 67.2224. RELEASE OF ORAL PUBLIC INFORMATION.**

Release of oral public information shall be accomplished as follows:

(a) Every department head or policy body shall designate a person or persons knowledgeable about the affairs of the department; or policy body to provide information, including oral information, to the public about the department's or policy body's operations, plans, policies and positions. The department head or policy body may designate himself or herself the custodian of records identified pursuant to 67.21 (a) of the Ordinance for this assignment, but in any event shall arrange that an alternate be available for this function during the absence of the person assigned primary responsibility. If a department or policy body has multiple bureaus or divisions, ~~the department may designate a person or persons for each bureau or division~~ may be designated to provide this information.

(b) The role of the person or persons so designated shall be to provide public information on as timely and thorough responsive a basis as possible to ~~these~~ members of the public who are not requesting information from a specific person. Every employee in the office of a City department or policy body has a duty to respond to inquiries from the public. This section shall not be interpreted to curtail existing ~~informal~~ contacts between employees and members of the public when these contacts are occasional, ~~acceptable to the employee and the department,~~ not disruptive of the employee's ~~his or her~~ operational duties and confined to requests for accurate information not confidential by law.

(c) ~~No employee shall be required to respond to an inquiry or inquiries from an individual if~~ If it would take an the employee more than fifteen (15) minutes to obtain the requested information responsive to the inquiry or inquiries, the employee shall notify the

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requester of the procedures for obtaining records under sections 67.21 and 67.22 of this Ordinance, and provide an appropriate form for that request if available.

(d) Notwithstanding any other provisions of this ordinance, City employees shall not be discouraged from or disciplined for disclosing any public information or public record to any journalist or other member of the public. Any public employee who is disciplined for disclosing public information or a public record shall have a cause of action against the City and the supervisor imposing the discipline, enforceable in the San Francisco Superior Court or any other court that has jurisdiction over such cases.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

~~(e)(d)~~ City Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion (1) is not represented as that of the department and does not misrepresent the department position; and (2) does not disrupt coworker relations, impair discipline or control by superiors, erode a close working relationship premised on personal loyalty and confidentiality, interfere with the employee's performance of his or her duties or obstruct the routine operation of the office in a manner that outweighs the employee's interests in expressing that opinion. In adopting this subdivision, the voters of the City and County of San Francisco Board of Supervisors intends merely to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public employees. Nothing in this section shall be construed to provide rights to City employees beyond those recognized by courts, now or in the future, under the First Amendment, or to create any new private cause of action or defense to disciplinary action.

~~(e) — Notwithstanding any other provisions of this ordinance, public employees shall not be discouraged from or disciplined for disclosing any information that is public information or a public record to any journalist or any member of the public. Any public employee who is~~

~~disciplined for disclosing public information or a public record shall have a cause of action against the City and the supervisor imposing the discipline.~~

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.~~25~~23. PUBLIC REVIEW FILE - POLICY BODY COMMUNICATIONS.**

(a) ~~The clerk of the Board of Supervisors and the clerk of each every City board and commission enumerated in the Charter~~ policy body shall maintain a file, accessible to any person during normal office hours, at the office of the policy body or at a place nearby clearly designated to the public containing in a chronological order a copy of any letter, memorandum or other communication ~~that~~ which the clerk has distributed to or received from a quorum of the policy body concerning a matter calendared by the body within the previous ~~thirty~~ (30) days or likely to be calendared within the next ~~thirty~~ (30) days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act (Government Code Section 6250 et seq.) and not deemed disclosable under Section 67.~~26~~24 of this article.

(b) ~~Communications, as described in subsection (a), sent or received in the last three business days shall be maintained in chronological order in the office of the department head or at a place nearby, clearly designated to the public. After documents have been on file for two full days, they may be removed, and, in the discretion of the board or commission, placed in a monthly chronological file. The identity and contact information of the sender of any letter, email or communication shall be presumed to be disclosable public information unless confidentiality is specifically requested by the sender or otherwise required by law.~~

(c) Multiple-page reports, studies or analyses ~~that~~ which are accompanied by a letter or memorandum of transmittal need not be included in the file so long as the letter or



memorandum of transmittal is included, provided that any such report, study or analysis is available on request to the clerk of the affected policy body.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.2624. PUBLIC INFORMATION THAT MUST BE DISCLOSED.**

Notwithstanding the a department's legal discretion to withhold certain information under the California Public Records Act (Government Code Section 6254), the following policies shall govern specific types of records documents and information and shall provide enhanced rights of public access to such information and public records:

(a) Drafts and Memoranda.

~~(1) — Except as provided in subparagraph (2), no No preliminary or draft record and no inter- or intra-agency memoranda, or department memorandum, whether in printed or electronic form, shall be exempt from disclosure under Government Code Section 6254, Subdivision (a) or any other provision. If such a document is not normally kept on file and would otherwise be disposed of, its factual content is not exempt under subdivision (a). Only the recommendation of the author may, in such circumstances, be withheld as exempt. This section is not intended to alter or extend the requirements under any document retention policy adopted by a policy body or department.~~

~~(2) — Draft versions of an agreement being negotiated by representatives of the City with some other party need not be disclosed immediately upon creation but must be preserved and made available for public review for 10 days prior to the presentation of the agreement for approval by a policy body, unless the body finds that and articulates how the public interest would be unavoidably and substantially harmed by compliance with this 10 day rule, provided that policy body as used in this subdivision does not include committees. In the case of negotiations for a contract, lease or other business agreement in which an agency of~~

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~~the City is offering to provide facilities or services in direct competition with other public or private entities that are not required by law to make their competing proposals public or do not in fact make their proposals public, the policy body may postpone public access to the final draft agreement until it is presented to it for approval.~~

(b) Litigation and Attorney-Client Material.

(1) Notwithstanding any exemptions otherwise provided by Government Code Section 6254 or any other law, the following are public records subject to disclosure under this Ordinance:

(i) A pre-litigation claim against the City;

(ii) A record ~~previously~~ received or created by a policy body or department in the ordinary course of business that was not subject to the attorney-/client privileged when at the time it was ~~previously~~ received or created;

(iii) ~~To the extent permitted by superseding laws, advice~~ Advice on compliance with, analysis of, an opinion concerning liability or duties under, or any communication otherwise concerning the California Public Records Act, the Ralph M. Brown Act, the Political Reform Act, any San Francisco Governmental Ethics Code, or this Ordinance.

(2) Unless otherwise prohibited ~~privileged~~ under an express provision of California law, when litigation is finally adjudicated or otherwise settled, records of all communications between the policy body or department and the adverse party shall be subject to disclosure, including the complete text and any and all terms of any settlement.

(c) Personnel Information. None of the following shall be exempt from disclosure under Government Code Section 6254, subdivision (c), or any other provision of California law ~~Law~~ where disclosure is not forbidden:

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(1) The job pool characteristics and employment and education histories of all successful job applicants, including at a minimum the following information as to each successful job applicant:

- (i) Sex, age and ethnic group;
- (ii) Years of graduate and undergraduate study, degree(s) and major or discipline;
- (iii) Periods employed and the related positions held Years of employment in the private and/or public sector;
- (iv) Whether currently employed in the same or a similar position for another public agency.
- (v) Other non-identifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.

(2) The professional biography, curriculum vitae and the job application of any City employee as well as that of any applicant, whether successful or not, for a position as a department head, or member of a City commission, task force or other policy body, provided that the applicant gives informed consent to the disclosure of this information; the home address, home telephone number, Social Security number, age, and marital status of the applicant shall be redacted.

~~(3)~~(2) The professional biography, ~~or~~ curriculum vitae or job application of any employee, provided that the home address, home telephone number, Social Security social security number, age, and marital status of the employee shall be redacted.

~~(4)~~(3) The job description of every employment classification.

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~~(5)(4)~~ The exact employment classification, gross salary and City-paid benefits available to each every employee identified by name, as well as salary actually earned, including all overtime, compensatory time, and paid leave time.

~~(6)(5)~~ Any memorandum of understanding between the City or department and a recognized employee organization.

~~(7)(6)~~ The amount, basis, and recipient of any performance-based increase in compensation, benefits, or both, or any other bonus, awarded to any employee, ~~which.~~ To the extent the performance-based award is granted by a policy body, the details of that award shall be announced during the open session of a policy body at which the award is approved.

~~(8)(7)~~ All The records regarding confirmed employee of any confirmed-misconduct, of a public employee involving personal dishonesty, misappropriation of public funds, resources or benefits, unlawful discrimination against another on the basis of status, abuse of authority, or violence, and or allegations of misconduct that are of a substantial nature, as distinct from the baseless or trivial, including records of any discipline or warnings imposed for such misconduct. Any investigation or report regarding allegations of employee misconduct – whether or not the investigation is conducted by or at the direction of an attorney – shall be released upon conclusion of that investigation as a result of which the allegations were found to be substantial, even if there is no ultimate finding of misconduct, no discipline imposed, or warning issued.

(d) Law Enforcement Information.

The District Attorney, Chief of Police, and Sheriff are encouraged to cooperate with the press and other members of the public in allowing access to local records and information pertaining to investigations, arrests, and other law enforcement activity. However, no provision of this Ordinance ordinance is intended to abrogate or interfere with the constitutional and statutory power and duties of the District Attorney and Sheriff as interpreted

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under Government Code section 25303 as amended or any successor provision, or other applicable state law or judicial decision. Records pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public once the District Attorney or court determines that a prosecution will not be sought against the subject involved, or once the statute of limitations for filing charges has expired, whichever occurs first.

Notwithstanding the occurrence of any such event, individual items of information in the following categories may be segregated and withheld if, on the particular facts, the public interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

- (1) The names of juvenile witnesses (whose identities may nevertheless be indicated by substituting a number or alphabetical letter for each individual interviewed);
- (2) Personal or otherwise private information related to or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;
- (3) The identity of a confidential source;
- (4) Secret investigative techniques or procedures;
- (5) Information whose disclosure would endanger law enforcement personnel; or
- (6) Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is concrete and definite.

This subdivision shall not exempt from disclosure any portion of any record of a concluded inspection or enforcement action by an officer or department responsible for regulatory protection of the public health, safety, or welfare.

(e) Requests, Contracts, Bids and Proposals

(1) All City Requests for Bids ("RFB"), Requests for Proposals ("RFP"), Requests for Quotes ("RFQuote"), Requests for Information ("RFI"), and Requests for Qualifications ("RFQ") and similar requests shall be (i) posted on the City's website from the

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date of issuance and (ii) kept in a central repository and shall be made available for public inspection.

(2) All responses to a RFQuote, RFI, and RFQ shall be made public upon receipt by the City. Each City department shall promptly post all responses to RFQuotes, RFIs and RFQs on the City's websites.

(3)(1) Contracts, contractors' bids, responses to RFBs, RFPs requests for proposals and all other records of communications between the department and persons or firms seeking contracts, including the dollar amount of any contract, shall be open to public inspection immediately after a contract has been awarded. Within five (5) days after a contract has been awarded, the successful RFB or RFP and the contract shall also be posted on the City's website. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request.

(4) Immediately after any review or evaluation or rating of responses to an RFB or RFP has been completed, evaluation forms and score sheets and any other documents used by persons in the RFB or RFP evaluation or contractor selection process shall be available for public inspection. The names of panel members, scorers, graders or evaluators, along with their respective job titles and employers (if not employed by the City) along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFB or RFP is completed.

(5)(2) Notwithstanding the provisions of this subdivision or any other provision of this ordinance, the Director of Public Health may withhold from disclosure proposed and final rates of payment for managed health care contracts if the Director determines that public

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disclosure would adversely affect the ability of the City to engage in effective negotiations for managed health care contracts. The authority to withhold this information applies only to contracts pursuant to which the City (through the Department of Public Health) either pays for health care services or receives compensation for providing such services, including mental health and substance abuse services, to covered beneficiaries through a pre-arranged rate of payment. This provision also applies to rates for managed health care contracts for the University of California, San Francisco, if the contract involves beneficiaries who receive services provided jointly by the City and University. This provision shall not authorize the Director to withhold rate information from disclosure for more than three (3) years.

~~(6)(3)~~ During the course of negotiations for:

- (i) personal, professional, or other contractual services not subject to a competitive process, or where such a the negotiations process has arrived at a stage where there is only one qualified or responsive bidder;
- (ii) leases or permits having total anticipated revenue or expense to the City and County of five hundred thousand dollars (\$500,000) or more or having a term of ten (10) years or more; or
- (iii) any franchise agreements; ~~;~~

All records ~~all documents~~ exchanged and related to the position of the parties, including draft contracts, shall be made available for public inspection and copying upon request. In the event that no records are prepared or exchanged during negotiations in the above-mentioned categories, or the records exchanged do not provide a meaningful representation of the respective positions, the City Attorney or City representative familiar with the negotiations shall, upon a written request by a member of the public, prepare written summaries of the respective positions within five (5) working days following the final day of negotiation of any given week. The summaries shall ~~will~~ be available for public inspection and copying. The

summaries shall not be a substitute for release of the actual documents exchanged between the parties.

~~(7) No later than July 15<sup>th</sup> annually. Upon completion of negotiations, the executed contract, including the dollar amount of said contract, shall be made available for inspection and copying. At the end of each fiscal year, each City department shall provide to the Board of Supervisors a list of all sole source contracts entered into or renewed during the past fiscal year. This list shall be posted to the City's website and kept in a central repository and shall be made available for public inspection and copying. made available for inspection and copying as provided for elsewhere in this Article.~~

(8) Contracts, leases or other business agreements subject to approval by a policy body (other than a committee thereof): Draft versions of an agreement being negotiated by representatives of the City with another party need not be disclosed immediately upon creation but must be preserved and made available along with the version of the agreement to be presented to the policy body for public review at least seven (7) business days prior to the presentation of the agreement for approval by a policy body, unless the body finds and articulates how the public interest would be unavoidably and substantially harmed by strict compliance with this seven (7) business day rule, provided that policy body as used in this subdivision does not include committees. In the case of negotiations for a contract, lease or other business agreement in which an agency of the City is offering to provide facilities or services in direct competition with other public or private entities that are not required by law to make their competing proposals public or do not in fact make their proposals public, the policy body may postpone public access to the final draft agreement until it is presented to it for approval.



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(f) Budgets and Other Financial Information. Budgets, whether tentative, proposed or adopted, for the City or any of its departments, programs, projects or other categories, and all bills, claims, invoices, vouchers or other records of payment obligations as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law, shall be disclosable ~~not be exempt from disclosure under any and all~~ circumstances.

~~(g) — Neither the City nor any office, employee, or agent thereof may assert California Public Records Act Section 6255 or any similar provision as the basis for withholding any documents or information requested under this ordinance.~~

~~(h) — Neither the City nor any office, employee, or agent thereof may assert an exemption for withholding for any document or information based on a "deliberative process" exemption, either as provided by California Public Records Act Section 6255 or any other provision of law that does not prohibit disclosure.~~

~~(i) — Neither the City, nor any office, employee, or agent thereof, may assert an exemption for withholding for any document or information based on a finding or showing that the public interest in withholding the information outweighs the public interest in disclosure. All withholdings of documents or information must be based on an express provision of this ordinance providing for withholding of the specific type of information in question or on an express and specific exemption provided by California Public Records Act that is not forbidden by this ordinance.~~

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 240-98, App. 7/17/98; Proposition G, 11/2/99)

**~~Section 67.25. IMMEDIACY OF RESPONSE.~~**

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~~(a) — Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.~~

~~(b) — If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requester shall be notified as required by the close of business on the business day following the request.~~

~~(c) — The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.~~

~~(d) — Notwithstanding any provisions of California Law or this ordinance, in response to a request for information describing any category of non-exempt public information, when so requested, the City and County shall produce any and all responsive public records as soon as reasonably possible on an incremental or "rolling" basis such that responsive records are produced as soon as possible by the end of the same business day that they are reviewed~~

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~~and collected. This section is intended to prohibit the withholding of public records that are responsive to a records request until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of this article.~~  
(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.2726. WITHHOLDING KEPT TO A MINIMUM.**

All withholdings of documents or information must be based on an express provision of this Ordinance providing for withholding of the specific type of record or information in question or on an express and specific prohibition or exemption provided by the California Public Records Act that this Ordinance does not supersede.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 240-98, App. 7/17/98)

(a) No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of this Ordinance or, to the extent not superseded by this Ordinance or the California Public Records Act or of some other statute.

(b) Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the disclosable nonexempt portion of a requested record can may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.29 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review.

(c) The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of every any employee in the office of a City department or policy body, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.28. PROHIBITED BASIS FOR WITHHOLDING.**

(a) Neither the City nor any officer, employee, or agent thereof may assert California Public Records Act Section 6255 or any similar provision as the basis for withholding documents or information requested under this Ordinance.

(b) Neither the City nor any office, employee, or agent thereof may assert an exemption for withholding for any document or information based on a "deliberative process" exemption, as provided by either California Public Records Act Section 6255 or any other provision of law that does not prohibit its disclosure.

(c) Neither the City, nor any office, employee or agent thereof may assert an exemption for withholding for any document or information based on a finding or showing that the public interest in withholding the information outweighs the public interest in disclosure. All withholdings of records or information must be based on an express provision of this Ordinance providing for withholding of the specific type of information in question or on an express and specific exemption provided by California Public Records Act that this Ordinance does not negate.

**SECTION 67.2927. JUSTIFICATION OF WITHHOLDING.**

Any withholding of a public record or public information shall be justified, in writing, as follows:

(a) A statement of withholding under a specific permissive exemption in this Ordinance or in the California Public Records Act, ~~or elsewhere,~~ which permissive exemption is not forbidden to be asserted by this Ordinance ordinance, shall cite that authority.

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(b) A statement of withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in this Ordinance or in the California Public Records Act or elsewhere.

(c) A statement of withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.

(d) When a requested record being requested contains public information, most of which is exempt from disclosure under this Ordinance or in the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the disclosable nonexempt information and suggest alternative sources for the information requested, if available.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

(e) If any information is withheld under sections (a) – (d) above, the written justification shall provide (i) a general description of the withheld information; (ii) the number of documents, pages, or lines of information withheld; (iii) a general description of withheld information; and (iv) the specific justification applicable to each section of withheld information.

**SECTION 67.3028. FEES FOR DUPLICATION.**

(a) No fee shall be charged for making public records available for review or inspection.

(b) For documents routinely produced in multiple copies for distribution, e.g., meeting agendas, and agenda packets and other public records prepared for consideration at a public meeting-related materials, unless a special fee has been established pursuant to subdivision (d) of this section, a fee not to exceed one (1) cent per page may be charged, plus

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any postage costs. Neither this section nor the California Public Records Act (Government Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that Act, whether or not distributed to a policy body.

(c) For records documents assembled and copied to the order of the requester, unless a special fee has been established pursuant to subdivision (d) of this section, a fee not to exceed ten (10) cents per page may be charged, plus any postage.

(d) A department may establish and charge a higher fee than the one (1) cent presumptive fee in subdivision (b) and the ten (10) cent presumptive fee in subdivision (c) if it prepares and posts an itemized cost analysis establishing that its cost per page impression exceeds ten (10) cents or one (1) cent, as the case may be. The cost per page impression shall include the following costs: one (1) sheet of paper; one (1) duplication cycle of the copying machine in terms of toner and other specifically identified operation or maintenance factors, excluding electrical power. Any such cost analysis shall identify the manufacturer, model, vendor and maintenance contractor, if any, of the copying machine or machines referred to.

(e) Copies of video, audio, or digital ~~Video copies of video-recorded meetings shall be provided to the public upon request for the actual cost of materials (i.e., tape, disk, CD, DVD) only. \$10.00 or less per meeting.~~

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

~~(f) A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established pursuant to the procedure set forth in Section 67.29(d). Neither this section nor the California Public Records Act (Government Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body.~~

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SECTION 67.3130. MINIMUM STANDARDS: ELECTRONIC RECORDS; COMPUTER SYSTEMS; WEB POSTINGS.**

(a) Inspection and Copying of Public Information Stored in Electronic Form.

Unless prohibited by law, any department or policy body that has information that constitutes an identifiable public record not wholly exempt from disclosure pursuant to an express provision of this Ordinance that exists in an electronic format shall make that information available in the native electronic or the specifically requested format as follows:

(1) Inspection and copying of documentary public information stored in electronic format shall be made available to the person requesting the information in any format in which the information is held by the department or policy body, any format that has been used by the department or policy body to create copies for its own use or for provisions to other agencies, or which is easily generated by the department or policy body, its officers or employees, including but not limited to any word processing, spreadsheet, database, raw text, raw data or other software programs used by or reasonably available to the department or policy body.

(2) Copies of any public information stored in electronic form shall be made available in an industry-standard format, including but not limited to CD-ROM, DVD, disk, tape, or printout at a charge no greater than the cost of the medium on which it is duplicated. Where requested and reasonably practicable, copies shall be provided via electronic mail or other form of electronic transmission to the requestor.

(3) Where public information stored in electronic form contains information that is exempt from disclosure pursuant to express provisions of this Ordinance, the department or policy body shall ensure that exempt information is segregated or segregable from the

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disclosable information to allow disclosure or inspection of the non-exempt information in electronic format pursuant to this section.

(4) Inspection of a public record in the application in which it was created shall be allowed by providing reasonable access to a workstation provided by a department or policy body. However, such inspection need not be allowed where the information sought is necessarily and inseparably intertwined with information exempt from disclosure under express provisions of this Ordinance.

(5) Nothing in this section shall require a department or policy body to create a computer program or system to respond to a request for information or to provide access that would jeopardize or compromise the security or integrity of the original record or violate a licensing agreement or copyright law.

(6) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(b) Converting Records to Electronic Format

When responding to Sunshine Ordinance or public record requests, every department and policy body shall, if requested, and if necessary technology and equipment are available, transfer documents that are otherwise only available in hard copy/paper form into an electronic format. The electronic format shall, as reasonably practicable, be searchable and electronically archivable for delivery via electronic mail or other electronic means, and posting on the department or policy body's website as appropriate.

(c) Minimum Standards for Use, Purchase and Upgrading of Computer Systems.

(1) It is the policy of the City to utilize computer technology to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this Ordinance. On an ongoing basis, departments and policy bodies that use computer systems to collect and store public



records shall program and design these systems to ensure convenient, efficient, and economical public access to records pursuant to subsection (a) above, including provision to redact or extract information specifically exempt from disclosure under this Ordinance from information that is otherwise disclosable and maintained in an electronic format. Departments and policy bodies shall also make public records easily accessible over public networks such as the Internet pursuant to subsection (d) below.

(2) Departments and policy bodies purchasing or upgrading computer systems shall reach the following goals as means to achieve lower costs to the public in connection with the public disclosure or records:

(i) Implementing a computer system in which exempt information is or can be easily segregated from disclosable information.

(ii) Implementing a system that permits reproduction of electronic copies of records in formats that are generally recognized as industry standards.

(iii) Implementing a system that permits making records available through the largest non-profit, non-proprietary public computer network, consistent with the requirement for security of information.

(3) A department or policy body shall not enter a contract for the creation or maintenance of a computer system if that contract impairs the public's ability to inspect or copy public information.

(d) Minimum Internet and Website Standards

Each department and policy body shall maintain a website, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available.

(1) Each department and policy body shall use all reasonable efforts to make publicly available through its website as much information and as many documents as possible concerning its activities. At a minimum, each department or policy body within six (6)

months from the Effective Date and each new policy body within six (6) months after its establishment shall post on its website all meeting notices and agendas required under this Ordinance, as well as the minutes of all previous meetings. Notices and agendas shall be posted no later than the time that the department or policy body otherwise distributes this information to the public, allowing reasonable time for posting. Minutes of meetings shall be posted as soon as possible, but in any event within two (2) business days after they have been approved.

(2) Each department and policy body shall make reasonable efforts to post documents, records, and information on its website in an industry standard, text searchable format.

(3) Each department and policy body shall make reasonable efforts to ensure that its website is reviewed for timeliness and updated at least weekly.

(4) Each department's and policy body's home page shall contain a link, titled "Records and Sunshine," to a page wherein the name, phone number, and e-mail address of its custodian of records, and its records retention policy, and as reasonably practicable past Sunshine Ordinance and public records requests and the responses thereto are posted.

(5) The City shall also make available on its website, or on a comparable, readily accessible location on the Internet, a current copy of the City Charter and all City codes.

**~~SECTION 67.21-1. POLICY REGARDING USE AND PURCHASE OF COMPUTER SYSTEMS.~~**

~~(a) It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this section. To the extent that it is technologically and economically feasible,~~

~~departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks such as the Internet.~~

~~(b) Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:~~

~~(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.~~

~~(2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format.~~

~~(3) Implementing a system that permits making records available through the largest non-profit, non-proprietary public computer network, consistent with the requirement for security of information.~~

~~(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 253-96, App. 6/19/96; Proposition G, 11/2/99)~~

**~~SECTION 67.29-2. INTERNET ACCESS/WORLD WIDE WEB MINIMUM STANDARDS.~~**

~~Each department of the City and County of San Francisco shall maintain on a World Wide Web site, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available. Each department is encouraged to make publicly available through its World Wide Web site, as much information and as many documents as possible concerning its activities. At a minimum, within six months after enactment of this provision, each department shall post on its World Wide Web site all meeting notices required~~

~~under this ordinance, agendas and the minutes of all previous meetings of its policy bodies for the last three years. Notices and agendas shall be posted no later than the time that the department otherwise distributes this information to the public, allowing reasonable time for posting. Minutes of meetings shall be posted as soon as possible, but in any event within 48 hours after they have been approved. Each department shall make reasonable efforts to ensure that its World Wide Web site is regularly reviewed for timeliness and updated on at least a weekly basis. The City and County shall also make available on its World Wide Web site, or on a comparable, readily accessible location on the Internet, a current copy of the City Charter and all City Codes. (Added by Proposition G, 11/2/99)~~

**SECTION 67.3229. INDEX TO RECORDS.**

The City and County shall prepare a public records index that identifies the types of information and documents maintained by City and County departments, agencies, boards, commissions, and elected officers. The index shall be for the use of City officials, staff and the public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g. by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. Any such master index shall be reviewed by appropriate staff for accuracy and presented for formal adoption to the administrative official or policy body responsible for the indexed records. The City Administrator shall be responsible for the preparation of this records index. The City Administrator shall report on the progress of the index to the Sunshine Commission ~~Sunshine Ordinance Task Force~~ on at least a semi-annually basis until

the index is completed. Each department, agency, ~~commission-policy body~~ and public official shall cooperate with the City Administrator to identify the types of records it maintains, including those documents created by the entity and those documents received in the ordinary course of business and the types of requests that are regularly received. Each department, agency, ~~commission-policy body~~ and public official is encouraged to solicit and encourage public participation to develop a meaningful records index. The index shall clearly and meaningfully describe, with as much specificity as practicable, the ~~individual~~-types of records that are prepared or maintained by each department, agency, ~~commission-policy body~~ or public official of the City and County. The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any changes in the department's, agency's, ~~commission-policy body's~~ or public official's practices or procedures affecting the accuracy of the information provided to the City Administrator shall be recorded by the City Administrator ~~on a~~ periodic basis at least monthly so as to maintain the integrity and accuracy of the index. The index shall be continuously maintained on the City's website ~~World Wide Website~~ and made available at public libraries within the City and County of San Francisco.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

**SECTION 67.3329-1. RECORDS AND CORRESPONDENCE SHALL BE MAINTAINED, AND SHALL SURVIVE TENURE AND TRANSITION OF OFFICIALS.**

(a) All records ~~documents~~ prepared, received, or maintained by the Office of the Mayor, by any elected City ~~city~~ and ~~county~~-official, and by the head of any City or County department ~~Department~~ – including but not limited to those enumerated in this Section – are permanently the property of the City and ~~County~~ of San Francisco. The originals of these documents shall be maintained consistent with the records retention and accessibility policies

of the City and County of San Francisco. The City Attorney or a Deputy City Attorney shall monitor the transition of the Mayor, elected officials, or any department head when he/she leaves office to ensure that public documents are not unlawfully removed or destroyed during the transition. The Mayor, elected officials and departments heads shall maintain and preserve, in a professional and businesslike manner, all records and correspondence, including but not limited to letters, e-mails, drafts, memoranda, invoices, reports and proposals, and these shall be disclosable in accordance with this Ordinance.

(b) City officials, elected representatives and employees, when communicating about City business by means of digital media or digital devices, shall be responsible for retaining complete and accurate records of such communications, including their verbatim content, time and date, and names of participants. The use in communications about City business of any media, device or application causing the self-deletion, or otherwise preventing retention, of the contents of such communications shall be deemed a willful violation of this Ordinance.

(c) City officials and employees having custody or possession of public records, documents, instruments, books and papers shall not cause to be destroyed any of the records, documents, books or papers unless all of the following conditions are met:

(1) The record, paper or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced on film, optical disk or any other medium in compliance with California Government Code Section 12168.7 for recording of permanent or nonpermanent records.

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(2) The device used to reproduce the record, paper or document on film, optical disk or any other medium is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions or changes to the original document images.

(3) The photographs, microphotographs or other reproductions on film, optical disk or any other medium are made as accessible for public reference as the original records were.

(4) A true copy of archival quality of the film, optical disk or any other medium reproductions shall be kept in a safe and separate place for security purposes.

(5) Moreover, no page of any record, paper or document shall be destroyed if any page cannot be reproduced on film or on another industry-standard medium with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

(6) For the purposes of this section, every reproduction shall be deemed an original record, and a transcript, exemplification or certified copy of any reproduction shall be deemed a transcript, exemplification or certified copy, as the case may be, of the original.

(d) The City Department of Elections shall keep and preserve all records and invoices relating to the design and printing of ballots, mechanical or digital vote tabulation equipment and other election materials, and all records documenting who had custody of ballots from the time ballots are cast until ballots are received and certified by the Department of Elections.

(e) In every contract, agreement or permit between the City and any outside entity, person, or organization that authorizes that entity, person, or organization to demand funds or fees from the public, the City shall ensure that accurate records of every transaction are

maintained and preserved in a professional and businesslike manner, and are available to the public as public records under the provisions of this Ordinance. Failure of an entity, person, or organization to comply with these provisions shall be grounds for terminating the contract or for imposing a financial penalty equal to one-half of the fees derived under the agreement or permit during the duration of the failure. Failure of any department to enforce or otherwise comply with this provision shall be a violation of this Ordinance. This paragraph shall apply to every agreement allowing an entity to tow or impound vehicles in the City or to collect any fee from any person in a pretrial diversion program.

**SECTION 67.29-2. INTERNET ACCESS/WORLD WIDE WEB MINIMUM STANDARDS.**

~~Each department of the City and County of San Francisco shall maintain on a World Wide Web site, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available. Each department is encouraged to make publicly available through its World Wide Web site, as much information and as many documents as possible concerning its activities. At a minimum, within six months after enactment of this provision, each department shall post on its World Wide Web site all meeting notices required under this ordinance, agendas and the minutes of all previous meetings of its policy bodies for the last three years. Notices and agendas shall be posted no later than the time that the department otherwise distributes this information to the public, allowing reasonable time for posting. Minutes of meetings shall be posted as soon as possible, but in any event within 48 hours after they have been approved. Each department shall make reasonable efforts to ensure that its World Wide Web site is regularly reviewed for timeliness and updated on at least a weekly basis. The City and County shall also make available on its World Wide Web site, or on a comparable, readily accessible location on the Internet, a current copy of the City Charter and all City Codes. (Added by Proposition G, 11/2/99)~~



**SECTION 67.29-3**

~~Any future agreements between the city and an advertising space provider shall be public records and shall include as a basis for the termination of the contract any action by, or permitted by, the space provider to remove or deface or otherwise interfere with an advertisement without first notifying the advertiser and the city and obtaining the advertiser's consent. In the event advertisements are defaced or vandalized, the space provider shall provide written notice to the city and the advertiser and shall allow the advertiser the option of replacing the defaced or vandalized material. Any request by any city official or by any space provider to remove or alter any advertising must be in writing and shall be a public record.~~  
(Added by Proposition G, 11/2/99)

**SECTION 67.33-229-4. LOBBYIST ON BEHALF OF THE CITY.**

(a) Any lobbyist who contracts for economic consideration with the City and County of San Francisco to represent the City and County in matters before any local, regional, state, or federal administrative or legislative body shall file a public records report of their activities ~~on a quarterly basis with the San Francisco Ethics Commission~~ within twenty (20) business days after the end of each quarter. This report shall be maintained by the Ethics Commission and shall be disclosable ~~not be exempt from disclosure~~. Each quarterly report shall identify all financial expenditures by the lobbyist, the individual or entity to whom each expenditure was made, the date the expenditure was made, and specifically identify the local, state, regional or national legislative or administrative action the lobbyist supported or opposed in making the expenditure. The failure to file a quarterly report with the required disclosures shall be a violation of this Ordinance, answerable to the Ethics Commission.

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(b) No person shall be deemed a lobbyist under section (a), unless that person receives or becomes entitled to receive at least three hundred dollars (\$300) total compensation in any thirty (30)-day period ~~month~~ for influencing legislative or administrative action on behalf of the City and County of San Francisco or has at least twenty-five (25) separate contacts with local, state, regional or national officials for the purpose of influencing legislative or administrative action within any two (2) consecutive months. No business or organization shall be deemed as a lobbyist under section (a) unless it compensates its employees or members for their lobbying activities on behalf of the City and County of San Francisco, and the compensated employees or members have at least twenty-five (25) separate contacts with local, state, regional or national officials for the purpose of influencing legislative or administrative action within any two (2) consecutive months. "Total compensation" shall mean ~~be calculated by combining~~ all compensation received from the City and County of San Francisco during the month for lobbying activities on matters at the local, state, regional or national level. "Total number of contacts" shall mean ~~be calculated by combining~~ all contacts made during the two (2)-month period on behalf of the City and County of San Francisco for all lobbying activities on matters ~~matters~~ at the local, state, regional or national level.

(c) Funds of the City and County of San Francisco, including organizational dues, shall not be used to support any lobbying efforts to restrict public access to records, information, or meetings, except where such effort is solely to ~~for the purpose of~~ protect the identity and privacy rights of private citizens.

(Added by Proposition G, 11/2/99)

**SEC. 67.33-329-5. SEARCHABLE MEETING LOGS OF ELECTED OFFICIALS,  
DEPARTMENT HEADS CALENDARS OF CERTAIN OFFICIALS.**

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(a) The Mayor, City Attorney, Treasurer, Assessor-Recorder, District Attorney, Public Defender, Sheriff, the members ~~every member~~ of the Board of Supervisors, and every other elected official and every department and agency head of the City subject to this Ordinance ~~Department Head~~ shall keep or cause to be kept a daily log calendar wherein is recorded the time and place of each meeting or event attended by that official, either in person or by teleconference or other electronic means, with the exclusion of purely personal or social events at which no City business is discussed and that do not take place at City Offices or at the offices or residences of people who do substantial business with or are otherwise substantially financially affected by actions of the City. For meetings not otherwise publicly recorded, the log calendar shall include a general statement of issues discussed. Such logs calendars shall be disclosable public records and shall be available to any requester three business days subsequent to the log calendar entry date.

(b) For meetings or events with ten (10) or fewer attendees, the log calendar shall also identify the individual(s) present and organization(s) represented at the meeting or event if known by the official, unless the official is aware that the information would reveal the identity of a confidential whistleblower, would interfere with an individual's right to petition government where the individual has sought and been assured confidentiality, would disclose the attendance of members or representatives of a labor organization at a meeting to discuss matters within the scope of representation, as that term is defined in California Government Code Section 3504, would reveal personnel information not subject to disclosure, or is otherwise exempt from disclosure under State and local law.

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(c) At any meeting or event with ten (10) or fewer attendees, officials subject to subsection (a) of this Section 67.29-5 shall attempt to identify names of attendees present and the organizations they represent; provided that an official shall not require any attendees to identify themselves, unless the official is aware that those attendees are campaign consultants registered with the Ethics Commission under Campaign and Governmental Conduct Code Article I, Chapter 5; lobbyists registered with the Ethics Commission under Campaign and Governmental Conduct Code Article II, Chapter 21; permit consultants registered with the Ethics Commission under Campaign and Governmental Conduct Code Article III, Chapter 4; Developers of Major Projects, as defined in Campaign and Governmental Conduct Code Section 3.510, if the Major Project is discussed at the meeting or event; and employees or representatives of any entity that has received a grant from or entered a contract with any City department within the previous 12 months. The official has no duty to ascertain whether any attendees fall into these categories. Within three (3) business days after a meeting or event subject to this subsection (c), the official shall update the daily log calendar to include the names of the attendees and organizations identified by or known to the official.

(d) For meetings with an individual – the individual’s name and his or her business or other affiliation, and a general statement or summary of matters discussed shall be included on the calendar, unless disclosing the individual’s name or other identifying information would violate a need for confidentiality imposed by law or on the facts of a particular circumstance.

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~~(e)~~(d) For the purpose of calculating the total number of attendees at a meeting or event under subsections (b) and (c), an official shall not include himself or herself.

~~(f)~~(e) The obligations imposed under subsections (b) and (c), and the obligations imposed upon members of the Board of Supervisors under subsection (a), shall not apply to meetings or events where City business is discussed only incidentally; to unplanned, casual conversations with residents; to campaign-related meetings, events, and appearances; or to meetings or events where all attendees are employees or officers in the official's City department, which for members of the Board of Supervisors shall mean that all attendees are members of the Board of Supervisors, legislative aides, or employees of the Office of the Clerk of the Board. Officials are not in willful violation of subsections (b) or (c), and members of the Board of Supervisors are not in willful violation of subsection (a), if they have made a good faith effort to comply with their obligations thereunder.

(g) To the fullest extent practicable, the logs and information required by this section shall be also posted on the department's or elected official's website at the start of each business day, but each public official subject to this section is encouraged to post his or her log as far in advance as possible.

(h) Nothing in this section shall exempt from disclosure any meeting log or meeting log information used for official City business that is kept by any City employee or official.

(Added by Proposition G, 11/2/99; amended by Ord. 118-15, File No. 150156, App. 7/15/2015, Eff. 8/14/2015)

**SECTION 67.~~33-429~~-6. SOURCES OF OUTSIDE FUNDING.**

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No official, ~~or~~ employee or agent of the City ~~city~~ shall accept, allow to be collected, or direct or influence the spending of, any money, or any goods or services worth more than fifty dollars (\$50) ~~one hundred dollars~~ in aggregate, in a calendar year, for the purpose of carrying out or assisting in any City function unless the amount and source of all such funds is disclosed as a public record and made available on the website for the department to which the funds are directed. When such funds are provided or managed by an entity, and not an individual, that entity must agree in writing to abide by the disclosure requirements of this Ordinance ~~ordinance~~. The disclosure shall include the names of all individuals and ~~or~~ organizations contributing such money and a statement as to any financial interest the contributor has involving the City.

(Added by Proposition G, 11/2/99)

**~~SECTION 67.29-7. CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.~~**

~~(a) — The Mayor and all Department Heads shall maintain, and preserve, in a professional and businesslike manner all documents and correspondence, including but not limited to letters, e-mails, drafts, memorandum, invoices, reports and proposals and shall disclose all such records in accordance with this ordinance.~~

~~(b) — The Department of Elections shall keep and preserve all records and invoices relating to the design and printing of ballots and other election materials and shall keep and preserve records documenting who had custody of ballots from the time ballots are cast until ballots are received and certified by the Department of Elections.~~

~~(c) — In any contract, agreement or permit between the City and any outside entity that authorizes that entity to demand any funds or fees from citizens, the City shall ensure that accurate records of each transaction are maintained in a professional and businesslike manner and are available to the public as public records under the provisions of this~~

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~~ordinance. Failure of an entity to comply with these provisions shall be grounds for terminating the contract or for imposing a financial penalty equal to one-half of the fees derived under the agreement or permit during the period of time when the failure was in effect. Failure of any Department Head under this provision shall be a violation of this ordinance. This paragraph shall apply to any agreement allowing an entity to tow or impound vehicles in the City and shall apply to any agreement allowing an entity to collect any fee from any persons in any pretrial diversion program.~~

(Added by Proposition G, 11/2/99)

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**ARTICLE IV**  
**POLICY IMPLEMENTATION**

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- Sec. 67.~~34~~~~30~~. The Sunshine Commission ~~Sunshine Ordinance Task Force~~
- Sec. 67.~~35~~~~31~~. Responsibility for Administration.
- Sec. 67.~~36~~~~32~~. Provision of Services to Other Agencies; Sunshine Required.
- Sec. 67.~~37~~~~33~~. Open Government ~~Department Head~~ Declaration.
- Sec. 67.38 Role of City Attorney's Office; Advice Shall Be Public Information
- Sec. 67.39 Hearing and Orders of Determination
- Sec. 67.40 Administrative Enforcement Provisions
- Sec. 67.~~41~~~~34~~. Willful Failure Shall be Official Misconduct.
- Sec. 67.42 Referrals and Enforcement by the Ethics Commission
- Sec. 67.~~43~~~~35~~. Public Enforcement Provisions.
- Sec. 67.~~44~~~~36~~. Sunshine Ordinance Supersedes Other Local Laws.
- Sec. 67.~~45~~~~37~~. Severability.
- Sec. ~~67A.1~~. ~~Prohibiting the use of Cell Phone, Pagers and Similar Sound-Producing Electrical Devices at and During Public Meetings~~

**SECTION 67.~~34~~~~30~~. THE SUNSHINE ORDINANCE TASK FORCE COMMISSION**

(a) There is hereby established a ~~task force to be known as the Sunshine Ordinance Task Force~~ the Sunshine Commission consisting of eleven (11) voting members, ~~appointed by the Board of Supervisors.~~ All members all of whom must have experience and/or



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~~demonstrated interest in the issues of citizen public access to and participation in local government. Two members shall be appointed from individuals whose names have been submitted by the local chapter of the Society of Professional Journalists, one of whom shall be an attorney and one of whom shall be a local journalist. One member shall be appointed from the press or electronic media. One member shall be appointed from individuals whose names have been submitted by the local chapter of the League of Women Voters. Four members shall be members of the public who have demonstrated interest in or have experience in the issues of citizen access and participation in local government. Two members shall be members of the public experienced in consumer advocacy. One member shall be a journalist from a racial/ethnic minority owned news organization and shall be appointed from individuals whose names have been submitted by New California Media. At all times the task force shall include at least one member who shall be a member of the public who is physically handicapped and who has demonstrated interest in citizen access and participation in local government. The Mayor or his or her designee, and the Clerk of the Board of Supervisors or his or her designee, shall serve as non-voting members of the task force. The City Attorney shall serve as legal advisor to the task force. The Sunshine Ordinance Task Force shall, at its request, have assigned to in an attorney from within the City Attorney's Office or other appropriate City Office, who is experienced in public access law matters. This attorney shall serve solely as a legal advisor and advocate to the Task Force and an ethical wall will be maintained between the work of this attorney on behalf of the Task Force and any person or Office that the Task Force determines may have a conflict of interest with regard to the matters being handled by the attorney.~~

The Commission shall be an independent body not part of or subject to the oversight of any other entity of City government. All members must reside in the City unless granted a residency waiver by the Board of Supervisors. The Commission's composition as set forth in

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Section 67.30(a) of the Sunshine Ordinance that the City voters enacted in November, 1999, shall remain in place until the expiration of the Commission members' current terms in April, 2018. Thereafter, the Commission shall comprise:

In Seat #1, an attorney nominated by the Northern California Chapter of the Society of Professional Journalists.

In Seat #2, an attorney nominated by the First Amendment Coalition.

In Seat #3, a journalist nominated by the Northern California Chapter of the Society of Professional Journalists.

In Seat #4, a journalist who is with a racial/ethnic minority-owned news outlet and/or is from a racial/ethnic minority or lesbian/gay/bisexual/transgender/queer community, nominated by the Northern California Chapter of the Society of Professional Journalists.

In Seat #5, a journalist nominated by the Media Alliance.

In Seat #6, a journalist nominated by the Pacific Media Workers Guild (The News Guild-CWA Local 39521).

In Seat #7, a member of the public nominated by the local chapter of the League of Women Voters.

In Seat #8, a member of the public who has experience in information technology, nominated by the Freedom of the Press Foundation.

In Seat #9, a member of the public nominated by the Coalition for San Francisco Neighborhoods.

In Seat #10, a member of the public who has experience in consumer advocacy.

In Seat #11, a member of the public who has a physical handicap as defined by the Federal Americans with Disabilities Act.

The Board of Supervisors shall appoint the nominee(s) of each of the aforesaid organizations unless it finds, by clear and convincing evidence, that a specific nominee is not

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qualified to serve on the Commission. If any of the aforesaid organizations ceases to exist, becomes unable to fulfill its nominator's role or withdraws its participation as a nominator, the Commission shall designate a successor organization as nominator.

The Commission shall appoint a full-time, Commission-dedicated staff including but not limited to an executive director/legal counsel to perform administrative duties supporting the Commission's mission, goals and objectives, and to provide guidance on open-government law and public-meeting procedures and processes, and a clerk to perform clerical duties as directed by the Commission. The Mayor and the Board of Supervisors shall appropriate sufficient funds for said staff and for office space, facilities and equipment enabling the members of said staff to perform their assigned duties to the Commission's satisfaction.

The Commission may hire outside counsel on an as-needed, competitive-bid basis for vacation, illness or emergency relief and/or to represent the Commission in litigative matters. The Commission may hire outside clerical personnel on an as-needed, competitive-bid basis for vacation, illness or emergency relief and/or voluminous-workload assistance. The Mayor and the Board of Supervisors shall appropriate sufficient funds on an as-needed, contract-awarded basis for these purposes.

All Commission members and staff personnel shall attend the Sunshine and Ethics Training Session conducted annually by the City Attorney or shall within thirty (30) calendar days thereafter view the video of said training session and complete the online test on the training content to demonstrate knowledge of same. New Commission members shall attend said training, or shall view said video and complete said test no later than thirty (30) calendar days after being seated. New Commission staff personnel shall attend said training, or shall view said video and complete said test no later than thirty (30) calendar days after taking their job.

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(b) The term of each appointive member shall be two years ~~unless earlier removed by the Board of Supervisors~~. In the event of such removal or in the event a vacancy otherwise occurs during the term of office of any appointive member, a successor shall be appointed for the unexpired term of the office vacated in a manner similar to that described herein for the initial members. Starting in April, 2019, the terms of the appointive members shall be staggered, with the terms of members in odd-numbered Commission seats starting and ending in odd-numbered years and the terms of members in even-numbered Commission seats starting and ending in even-numbered years. The Commission task force shall elect a chair and vice chair from among its voting appointive members. The term of office for the as chair and vice chair shall be one year. Members of the Commission task force shall serve without compensation.

(c) The Commission task force shall advise the Board of Supervisors ~~and provide information to other City departments~~, the office of the Mayor and other City departments on appropriate ways in which to implement this chapter. The Commission task force shall develop appropriate goals to ensure practical and timely implementation of this chapter. The Commission task force shall propose to the Board of Supervisors amendments to this chapter and solicit advice from City officials, employees and members of the public on ways to improve the Ordinance. The Commission task force shall report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of this Ordinance chapter. The Commission Task force shall receive and review the annual reports of the Supervisor(s) of Public Records and Public Forums and may request additional reports or information as it deems necessary.

(d) The Commission Task Force may shall make referrals to a municipal office or any other appropriate body or official, including the Ethics Commission, Board of Supervisors, District Attorney and the California Attorney General with enforcement power under this

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Ordinance ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this Ordinance ordinance or the Acts. The Commission Task Force shall, from time to time as it sees fit, issue public reports evaluating compliance with this ordinance and related California laws by the City or any department Department, office Office, or official Official thereof.

(d) — In addition to the powers specified above, the Task Force shall possess such powers as the Board of Supervisors may confer upon it by ordinance or as the People of San Francisco shall confer upon it by initiative.

(e) The Commission Task Force shall approve by-laws specifying a general schedule for meetings, requirements for attendance by Commission Task Force members, and procedures and criteria for removing members for non-attendance or malfeasance.

(f)(d) In addition to the powers specified above, the Commission Task Force shall possess such powers as the Board of Supervisors may confer upon it by ordinance or as the People of San Francisco shall confer upon it by initiative.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 118-94, App. 3/18/94; Ord. 432-94, App. 12/30/94; Ord. 287-96, App. 7/12/96; Ord. 198-98, App. 6/19/98; 387-98, App. 12/24/98; Proposition G, 11/2/99)

### **SECTION 67.3531. RESPONSIBILITY FOR ADMINISTRATION.**

The Mayor shall administer and coordinate the implementation of the provisions of this chapter for departments under his or her control. ~~The Mayor shall administer and coordinate the implementation of the provisions of this chapter~~ and for departments under the control of boards and commissions appointed by the Mayor. Elected officers shall administer and coordinate the implementation of the provisions of this chapter for departments under their respective control. ~~The Clerk of the Board of Supervisors shall provide a full-time staff to~~

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~~perform administrative duties for the Sunshine Ordinance Task Force and to assist any person in gaining access to public meetings or public information. The Clerk of the Board of Supervisors shall provide that staff person with whatever facilities and equipment are necessary to perform said duties.~~ (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

### **SECTION 67.3632. PROVISION OF SERVICES TO OTHER AGENCIES; SUNSHINE REQUIRED.**

~~(a) It is the policy of the City and County of San Francisco to ensure opportunities for informed civic participation embodied in this Ordinance to all local, state, regional and federal agencies and institutions with which it maintains continuing legal and political relationships. Officers, agents and other representatives of the City shall continually, consistently and assertively work to seek commitments to enact open meetings, public information and citizen comment policies by these agencies and institutions, including but not limited to the Presidio Trust, the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Transportation Authority, the San Francisco Housing Authority, the Treasure Island Development Authority, the San Francisco Redevelopment Authority and the University of California campuses operating within the City. To the extent not expressly prohibited by law, copies of all records, including written communications with the above identified entities and any City employee, officer, agents, and/or or and representative, shall be disclosable accessible as public records. To the extent not expressly prohibited by law, any meeting of the governing body of any such agency, organization or and institution at which City officers, agents or representatives are present in their official capacities shall be open to the public, and this provision may can not be waived by any City officer, agent or representative.~~

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(b) The City shall give no subsidy in money, tax abatements, land, or services to any private entity that does not agree unless that private entity agrees in writing to provide the City with financial projections (including profit and loss figures) promptly after preparation and annual audited financial statements for the project or development thereafter, for the project upon for which the subsidy is proposed or provided, based and all such projections and financial statements shall be public records that must be disclosed.

(Added by Proposition G, 11/2/99)

### **SECTION 67.3733. OPEN GOVERNMENT DEPARTMENT HEAD DECLARATION.**

All City department heads and all City management employees and all employees or officials who are required to sign an affidavit of financial interest with the Ethics Commission shall sign an annual affidavit or declaration stating under penalty of perjury that they have read the Sunshine Ordinance and have attended or will attend when next offered, a training session on the Sunshine Ordinance, to be held at least once annually. The affidavit or declarations shall be maintained by the Ethics Commission ~~and shall be available as a~~ disclosable public record. Annual training shall be provided by the San Francisco City Attorney's Office in consultation with the ~~with the assistance of the Sunshine Ordinance Task Force~~ Sunshine Commission. All materials and training plans shall be approved by the Sunshine Commission annually.

(Added by Proposition G, 11/2/99)

### **SECTION 67.38. ROLE OF CITY ATTORNEY'S OFFICE: ADVICE SHALL BE PUBLIC INFORMATION.**

(a) The City Attorney's office shall act to protect and secure the rights of the people of San Francisco to access public information and public meetings and shall not act as legal

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counsel for any City employee or any person having custody of any public information for purposes of denying access to public meetings or public information.

(b) Notwithstanding the attorney-client privilege and work-product protections that might otherwise be applicable, all written or oral communications with the City Attorney's Office with regard to this Ordinance, and obligations under the California Public Records Act, the Brown Act, and any other applicable open government law, including petitions, requests for opinion, opinions and advice shall, to the extent permitted by superseding laws, be disclosable public records and public information. The City Attorney's Office shall not have a policy to provide oral advice in lieu of written advice to avoid disclosure under this provision.

(d) Notwithstanding the provisions of this section, the City Attorney may defend the City or a City Employee in litigation under this Ordinance to the extent required by State law or the City Charter.

(e) Every year on September 30, and as otherwise requested by the Sunshine Commission, the Supervisor of Public Records and Supervisor of Public Forums shall prepare a tally and report of every petition brought before it for access to records and public forum questions since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the custodian of those records, the public forum question presented, the ruling of the Supervisor of Public Records and Supervisor of Public Forums, whether any ruling was overturned by a court and whether each order given to a custodian of public records and/or any employee, official, department, agency, or policy body was complied with. The report shall also summarize any court actions during that period regarding petitions the Supervisor of Public Records or Supervisor of Public Forums have decided as well as court actions regarding or implicating the Sunshine Ordinance. The report shall also include copies of all rulings made by the Supervisor of Public Records and Supervisor of Public Forums and all opinions issued.



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### **SECTION 67.39. HEARINGS AND ORDERS OF DETERMINATION.**

(a) The Sunshine Commission shall conduct administrative hearings on complaints of alleged violations this Ordinance, the California Public Records Act, or the Brown Act. The Commission may issue Orders of Determination following a hearing on a particular complaint. If the Commission determines on the basis of substantial evidence presented during a hearing that a violation of the Ordinance, the California Public Records Act or the Brown Act has occurred, it shall issue an Order of Determination with written findings of fact and law. The Sunshine Commission shall inform the petitioner or complainant, as soon as possible but in no case later than forty-five (45) days after the petition or complaint is filed, of its determination on whether the record requested, or any part of the record requested, is disclosable or there has been a denial of public access to a meeting. The Order of Determination shall issue to the Complainant and the Respondent and shall be posted on the Sunshine Commission's website.

(b) To the extent not prohibited by State law or the City Charter, the Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmation, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers.

(c) An authorized representative of the respondent employee, official, department, agency, policy body, or custodian of public record who has personal knowledge of the facts and matters alleged in the complaint shall attend each Commission hearing and Commission committee hearing to fully explain the response to the petitioner's or complainant's request for access to public meetings or public information, as well as provide a detailed written description of the records search conducted, and the statutory or case law basis for any

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decision to withhold or redact the records requested, or to bar public attendance at and/or participation in the meeting(s), as applicable.

(d) When requested by petition or complaint, the Commission may conduct a hearing into an allegation that a policy body, advisory body or passive meeting body violated a provision in Article II or in the Brown Act applicable to that body. An authorized knowledgeable representative of that body shall attend every Commission and Commission committee hearing on the complaint and the basis for the body's conduct therein. The same authorized knowledgeable representative shall attend all these proceedings to maintain consistency. Absence of knowledge and/or failure of attendance by the authorized representative, shall constitute a violation of this subsection by the head of the respondent body involved.

### **SECTION 67.40. ADMINISTRATIVE ENFORCEMENT PROVISIONS.**

(a) Upon issuing an Order of Determination, finding that a record is disclosable and should be released or other action should be taken by an employee, official, department, agency, policy body or custodian of public records, the Sunshine Commission shall immediately order the person or entity to comply with the Order of Determination. If the person or entity fails to comply with any such Order within five (5) business days after issuance, the Sunshine Commission may refer the matter to the San Francisco Ethics Commission, Board of Supervisors, District Attorney or the California Attorney General or other appropriate enforcement body who may take whatever measures they deem necessary to effect compliance with the Order of Determination.

(b) Upon issuing an Order of Determination, the Commission may require the governing entity to which the person or entity that has violated the Ordinance reports or

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heads, to schedule at the governing entity's next regularly scheduled meeting the Order of Determination for its discussion and response.

(c) Upon issuing an Order of Determination, the Commission may require the governing entity to which the person or entity that has violated the Ordinance reports to post the Order of Determination prominently on the entity's website for 60 days or until the matter addressed in the Order of Determination is concluded, whichever occurs later. The entity shall maintain the Order of Determination as a permanent, disclosable public record.

(d) The administrative and other remedies provided under this Ordinance shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer or employee of any agency, executive office, department or policy body; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an Order of Determination under this Ordinance, the Superior Court of San Francisco shall have jurisdiction to order compliance.

(e) Except as provided herein, an Order of Determination shall be evidence of a violation of this Ordinance or other applicable open government law in any other administrative or judicial proceeding, and factual findings made during the hearing before the Commission shall be reviewed for abuse of discretion.

### **SECTION 67.4134. WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT.**

The willful failure of any City-employed person or City office or entity ~~elected official, department head, or other managerial city employee~~ to discharge any duties imposed by the Sunshine Ordinance, the Brown Act or the California Public Records Act shall be deemed official misconduct for purposes of this Ordinance and any other applicable provisions of the

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City Charter, Ordinances, and State law. If the Commission determines that any person or entity has willfully failed to discharge any such duties, the Commission shall refer the matter, with written findings of law and fact, to the Ethics Commission for enforcement. The Commission may also refer the matter to the Board of Supervisors, District Attorney or the California Attorney General for investigation and enforcement. Complaints involving allegations of willful violations of this ordinance, the Brown Act or the Public Records Act by elected officials or department heads of the City and County of San Francisco shall be handled by the Ethics Commission.

(Added by Proposition G, 11/2/99)

### **SECTION 67.42. REFERRALS AND ENFORCEMENT BY THE ETHICS COMMISSION.**

(a) The Ethics Commission is authorized to enforce the Orders of Determination and findings of Official Misconduct referred to it by the Sunshine Commission. Upon referral of any Order of Determination to the Ethics Commission, the following procedures and standards shall apply.

(1) The Chair or Vice-Chair of the Sunshine Commission and the underlying complainant in whose favor the Order of Determination was issued shall both be considered the “complainant of record” for purposes of Ethics Commission investigations and enforcement of Orders of Determination.

(2) Any public officer or employee found to have committed official misconduct under this Ordinance shall be fined at least five hundred dollars (\$500) and up to five thousand dollars (\$5,000), depending on the seriousness of the misconduct. Any such fine shall be paid personally by the officer or employee and not from City funds.

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(3) Any agency, policy body or department found to have committed official misconduct under this Ordinance shall be fined at least five hundred dollars (\$500) and up to five thousand dollars (\$5,000), depending on the seriousness of the misconduct.

(4) The Sunshine Commission may, in a referral of a finding of official misconduct, recommend the level of fines to be imposed.

(5) The Ethics Commission may impose any additional penalty authorized by law for official misconduct.

(6) Any such fines imposed by the Ethics Commission under this provision, shall be placed in the Sunshine Commission's litigation fund.

(b) The Commission's Order of Determination and, as applicable, finding of willful violation constituting official misconduct, shall be evidence of a violation of this Ordinance or other applicable open government law in any Ethics Commission investigation or proceeding. Factual findings made during Commission hearings and in its orders shall be reviewed only for abuse of discretion.

### **SECTION 67.4335. PUBLIC ENFORCEMENT PROVISIONS.**

(a) In any court proceeding pursuant to or to enforce this Ordinance there shall be a presumption that the information sought is disclosable, that any meeting or portion of a meeting should be open to the public as well as the records of such meeting, and the burden shall be upon the respondent to prove with specificity that they have fully complied with the Ordinance or that an exemption to or prohibition of disclosure applies.

(b)(a) Any person may commence institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this Ordinance or to enforce his or her right to attend any meeting required under this Ordinance

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to be open, or to compel such meeting to be open. Filing a complaint with the Sunshine Commission or exhausting the Commission complaint and hearing procedures is not a prerequisite to filing an action under this subsection.

(c) Any person may commence proceedings for injunctive relief, declaratory relief or writ of mandate in any court of competent jurisdiction for purposes of obtaining a judicial determination that an action taken by a policy body in violation of this Ordinance is null and void under this section. Nothing in this Ordinance shall be construed to prevent a policy body from curing or correcting an action challenged pursuant to this section.

(d) Prior to any action being commenced pursuant to subsection (c), the person shall make a demand on the policy body to cure or correct the action alleged to have been taken in violation of this Ordinance. The demand shall be in writing and clearly describe the challenged action of the policy body and the nature of the alleged violation.

(1) Written demand shall be made within thirty (30) calendar days from the date the action was taken.

(2) Within twenty (20) business days after receipt of the demand, the policy body shall cure or correct the challenged action and inform the complainant in writing of its actions to cure or correct or inform the complainant in writing of its decision not to cure or correct the challenged action.

(3) If the policy body takes no action within the twenty (20)-business-day period, the inaction shall be deemed a decision not to cure or correct the challenged action.

(4) The complainant who receives notice of the policy body's decision not to cure or correct the challenged action, or if the policy body takes no action within the forty-five (45)-calendar-day period, may file a complaint with the Sunshine Commission. If the Sunshine Commission finds that the policy body violated the Ordinance, the complainant may commence an action pursuant to subsection (b). The

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Sunshine Commission shall not have authority to void an action of a policy body, but filing a complaint and exhausting the Commission's complaint and hearing procedures is a prerequisite to filing an action under subsection (b).

~~(e)(b)~~ A court shall award costs and reasonable attorneys' fees to the plaintiff ~~who if~~ that person or entity is the prevailing party in an action brought to enforce this Ordinance.

~~(f)(e)~~ If a court finds that an action filed pursuant to this section is frivolous, the City and County may assert its rights to be paid its reasonable attorneys' fees and costs.

~~(g)(d)~~ Any person may institute proceedings for enforcement and penalties under this Ordinance act in any court of competent jurisdiction or before the Ethics Commission if enforcement action is not taken by a city or state official 40 days after a complaint is filed sixty (60) calendar days after an Order of Determination was issued by the Sunshine Commission, the City department, entity, official, body or employee has not complied with the Order of Determination issued by the Sunshine Commission.

(h) The Ethics Commission shall apply the same procedures and standards, and conduct such proceedings in the same manner and under the same rules as it would have conducted them upon a referral from the Sunshine Commission for enforcement of such Order of Determination pursuant to and in accordance with Section 67.42, except that the Sunshine Commission shall not be considered a "complainant of record" as provided in Section 67.42(a)(1).

(Added by Proposition G, 11/2/99)

### **SECTION 67.4436. SUNSHINE ORDINANCE SUPERSEDES OTHER LOCAL LAWS.**

The provisions of this Sunshine Ordinance supersede other local ordinances laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information and meetings shall apply. The foregoing

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includes recognition that when a provision in the Brown Act or the California Public Records Act (CPRA) calls for greater public access and/or transparency than does a relevant provision in the City Charter, the Brown Act or CPRA provision shall prevail.

(Added by Proposition G, 11/2/99)

### **SECTION 67.4537. SEVERABILITY.**

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)



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### **~~SECTION 67A.1. PROHIBITING THE USE OF CELL PHONES, PAGERS AND SIMILAR SOUND-PRODUCING ELECTRICAL DEVICES AT AND DURING PUBLIC MEETINGS.~~**

~~At and during a public meeting of any policy body governed by the San Francisco Sunshine Ordinance, the ringing and use of cell phones, pagers and similar sound-producing electronic devices shall be prohibited. The presiding officer of any public meeting which is disrupted may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices. The presiding officer may allow an expelled person to return to the public meeting following an agreement by the expelled person to comply with the provisions of this Section. A warning of the provisions of this Section shall be printed on all meeting agendas, and shall be explained at the beginning of each public meeting by the presiding officer.~~

~~(Added by Ord. 286-00, File No. 001155, App. 12/22/2000)~~