

Date: May 11, 2010

Item No. 1
File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Proposed Amendments**
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Completed by: Chris Rustom

Date: May 11, 2010

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

AMENDMENTS FOR 2010

Approved 6/10/2008 by the Task Force

Note: Additions are single-underline, deletions are ~~striketrough~~.

Approved 3/3/2010 by the Compliance and Amendments Committee

Note: Additions are double-underline, deletions are ~~double-striketrough~~.

PROPOSED ORDINANCE AMENDMENTS

**ARTICLE I
IN GENERAL**

5 Sec. 67.1. Findings and Purpose.

6 Sec. 67.2. Citation.

SECTION 67.1 FINDINGS AND PURPOSE.

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

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

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

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

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1 (d) The right of the people to know what their government and those acting on
2 behalf of their government are doing is fundamental to democracy, and with very few
3 exceptions, that right supersedes any other policy interest government officials may use to
4 prevent public access to information. Only in rare and unusual circumstances does the public
5 benefit from allowing the business of government to be conducted in secret, and those
6 circumstances should be carefully and narrowly defined to prevent public officials from
7 abusing their authority.

8 (e) Public officials who attempt to conduct the public's business in secret should be
9 held accountable for their actions. Only a strong Open Government and Sunshine Ordinance,
10 enforced by a strong Sunshine Commission¹~~Sunshine Ordinance Task Force~~, can protect the
11 public's interest in open government.

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

14 (g) Private entities and individuals and employees and officials of the City and County of
15 San Francisco have rights to privacy that must be respected. However, when a person or
16 entity is before a policy body or passive meeting body, that person, and the public, has the
17 right to an open and public process. (Added by Ord. 265-93, App. 8/18/93; amended by
18 Proposition G, 11/2/99)

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21 ¹ The Task Force is changing its name from "Task Force" – which implies a body established
22 for a temporary purpose – to "Commission" throughout the Ordinance. This is a non-
23 substantive change, based on advice from Deputy City Attorney Ernest Llorente, in
24 consultation with the City Attorney Office's government team, that the body's name change
25 would not alter the body's appointment process or powers.

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1 **SECTION 67.2. CITATION.**

2 This ~~Chapter~~chapter may be cited as the San Francisco Sunshine Ordinance. (Added by Ord.
3 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

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ARTICLE II PUBLIC ACCESS TO MEETINGS

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- Sec. 67.3. Definitions.
- Sec. 67.4. Passive Meeting 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. Supervisor of Public Forums

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1 SECTION 67.3. DEFINITIONS.

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

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

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

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

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

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

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

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

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1 (B) The attendance of a majority of the members of a policy body at a local,
2 regional, ~~statewide~~, or national conference, or at a meeting organized to address a topic of
3 local community concern and open to the public, provided that a majority of the members of a
4 policy body refrains from using the occasion to collectively discuss ~~the topic of the gathering~~
5 ~~or any other business item~~ within the subject matter jurisdiction of the ~~City~~policy body; or

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

15 (D) The attendance of a majority of the members of a policy body at a meeting of a
16 standing committee of the policy body, provided that the members of the policy body who are
17 not members of the standing committee attend only as observers or as members of the
18 public.²

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

21 _____
22 ² As noted in the Good Government Guide, "the drafters of Proposition G (November 2, 1999)
23 inadvertently omitted section 67.3(b)(4)(C-1), formerly Section 67.3(b)(4)(D), from the text of
24 the ordinance submitted to the voters." This corrects that omission.

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

4 (cd) "Policy body" shall mean:³

5 (1) The Board of Supervisors;

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

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

9 ~~(4)(5) Any advisory board, commission, committee or other body, created by the~~
10 ~~initiative Mayor or of a~~ policy body;

11 ~~(5)(4) Any board, commission, committee or other body, standing committee of a policy~~
12 ~~body composed of members of the policy body, irrespective of its composition.;~~

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

19 ~~(7)(6)~~ Any advisory board, commission, committee, or council created by a federal,
20 state, or local grant whose members are appointed by ~~city~~ City officials, employees or agents.

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23 ³ See above; expanded categories of policy bodies.

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

3 (ed) "Passive meeting body" shall mean:⁴

4 (1) Advisory committees created by the initiative of a member of a policy body, the
5 ~~Mayor~~ the Mayor, ~~or a department head~~, or someone operating with the department head's
6 authority other than the Mayor;

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

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

15 (4) "Passive meeting body" shall not include a committee that consists solely of City
16 City employees of the City and County of San Francisco ~~of the City and County of San~~
17 ~~Francisco~~, created by the initiative of a member of a policy body, the Mayor, or a department
18 ~~head; to study internal departmental affairs which is not expected to modify or change City~~
19 policy;

20
21 _____
22 ⁴ Revised 67.3(c) and (d) to: clarify ambiguity regarding "advisory" committees and bodies;
23 make clear that where body is tasked with changing or implementing new policy – they are
24 policy bodies; all bodies created by Mayor (except ones that include City employees to meet
25 with residents) are now "Policy Bodies."

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

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

12 (i) All notices and agendas for policy meeting bodies shall be posted at least 72
13 hours in advance of the meeting on a centralized location on the City's website, where
14 the date, time and place of each meeting is listed;

15 (ii) All notices and agendas, if created, for passive meeting bodies shall be posted
16 at least 72 hours in advance of the meeting on a centralized location on the City's
17 website, where the date, time and place of each meeting is listed;

18 (iii) All agendas for policy bodies shall be posted at least 72 hours in advance of the
19 meeting on the policy body's website;

20 (iv) All notices and/or agendas for policy or passive meeting bodies shall be posted
21 at least 72 two hours in advance of the meeting at the main Library; and;

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1 (v) All notices and/or agendas shall be physically posted outside the meeting room
2 as soon as practicable, but no later than the start of each meeting.

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

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

7 ~~(1)~~ (b) Such gatherings must ~~need not~~ be formally noticed. Notice of the time, place
8 and nature of the meeting shall be posted with a contact person's name and contact
9 information, at least 72 hours prior to the scheduled meeting ~~except on the City's website~~
10 ~~whenever possible, although and the time, place and nature of the gathering shall be posted~~
11 ~~at the main library and on the City's website and~~ be disclosed by mail, e-mail, or fax upon
12 inquiry by a member of the public, and any. If an agenda actually is prepared in advance for
13 the gathering, it shall be accessible to such inquirers as a public record provided upon request,
14 and as practicable posted with the notice.⁵

15 ~~(2)~~ Such gatherings ~~need not~~ be conducted in any particular space for the
16 ~~accommodation of members of the public, although members of the public shall be permitted~~
17 ~~to observe on a space available basis consistent with legal and practical restrictions on~~
18 ~~occupancy.~~⁶

19 ~~(3)~~ (c) Such gatherings of a business nature ~~need not~~ provide opportunities for
20 comment by members of the public, although the person presiding may, ~~in~~ at his or her

21 _____
22 ⁵ Revised 67.4(b), passive meeting bodies are now required to formally notice meetings at
23 least 72 hours in advance; mandates enhanced notice and website posting requirements.

⁶ Provision consolidated with subsection 67.4(a) above.

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1 ~~discretion,~~ entertain such questions or comments from ~~spectators~~ members of the public as
2 may be relevant to ~~the business of the gathering.~~

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

5 ~~(5) Gatherings subject to this subsection include the following: advisory committees~~
6 ~~or other multimember bodies created in writing or by the initiative of, or otherwise primarily~~
7 ~~formed or existing to serve as a non-governmental advisor to, a member of a policy body, the~~
8 ~~Mayor, the City Administrator, a department head, or any an elective officer, or a department~~
9 ~~head, or someone operating with the department head's authority, other than the Mayor and~~
10 ~~social, recreational or ceremonial occasions sponsored or organized by or for a policy body to~~
11 ~~which a majority of the body has been invited. This subsection shall not apply to a committee~~
12 ~~which consists solely of employees of the City and County of San Francisco.⁷~~

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

15 (e)(b) To the extent not inconsistent with state or federal law, a policy body shall
16 include in any contract with an entity that owns, operates or manages any property in which
17 the City has or will have an ownership interest, including a mortgage, and on which the entity
18 performs a government function related to the furtherance of health, safety or welfare, a
19 requirement that any meeting of the governing board of the entity to address any matter
20 relating to the property or its government related activities on the property, or performance
21 under the contract or grant, be conducted as provided under this section ~~in subdivision (a) of~~

22 _____
23 ⁷ Removed as unnecessary.

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1 ~~this section~~. Records made available to the governing board relating to such matters shall be
2 likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per
3 page, or at a higher actual cost as demonstrated in writing to such governing board. ⁸(Added
4 by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

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

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

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

13 **SECTION 67.6. POLICY BODIES; ~~CONDUCT OF BUSINESS~~; TIME AND PLACE FOR** 14 **MEETINGS.**

15 (a) Each policy body, except for ~~advisory bodies~~ specified in Section 67.3(d)(5) and
16 67.3(d)(6), shall establish by resolution or motion the time and place for holding regular
17 meetings.

18 (b) ~~Unless otherwise required by state or federal law or necessary to inspect real~~
19 ~~property or personal property which cannot be conveniently brought within the territory of the~~
20 ~~City and County of San Francisco or to meet with residents residing on property owned by the~~
21 ~~City, or to meet with residents of another jurisdiction to discuss actions of the policy body that~~

22
23 ⁸ Task Force recommends moving this entire section to new 67.24 [not yet moved].

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1 ~~affect these residents, all meetings of its policy bodies shall be held within the City and County~~
2 ~~of San Francisco.~~⁹

3 (e)(b) If a regular meeting would otherwise fall on a holiday, it shall instead be held on
4 the next business day, unless otherwise rescheduled in advance. If a meeting must be
5 canceled, continued or rescheduled for any reason, notice of such change shall be provided
6 to the public as soon as is reasonably possible, including posting of a cancellation notice in
7 the same manner as described in section 67.7(c), and mailed notice if sufficient time
8 permits.¹⁰

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

16 (e)(d) Meetings of ~~passive meeting~~ bodies as specified in Section 67.3(d)(5) and
17 67.3(d)(6) ~~67.6(d)(4) of this article~~ shall be preceded by notice delivered ~~personally or by mail,~~
18 e-mail, or facsimile ~~as reasonably requested~~ at least 72 hours before the time of such meeting
19 to each person who has requested, in writing, notice of such meeting. If the ~~advisory~~ body
20 elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by
21 that ~~advisory~~ body for the conduct of its business, for the time and place for holding such

22 ⁹ Moved to new 67.6(f).

23 ¹⁰ Moved from former 67.6(g).

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1 regular meetings. ~~In such case, no notice of regular meetings, other than the posting of an~~
2 ~~agenda pursuant to Section 67.7 of this article in the place used by the policy body which it~~
3 ~~advises, is required.~~

4 (f)(e) Special meetings of any policy body, including advisory bodies identified in
5 subsection 67.3(d)(5) and 67.3(d)(6) that choose to establish regular meetings ~~times~~, may be
6 called at any time by the presiding officer thereof or by a majority of the members thereof, by
7 ~~delivering personally or by mail~~ written notice to each member of such policy body and the
8 local media who have requested written notice of special meetings in writing. Such notice ~~of a~~
9 ~~special meeting shall be delivered~~ personally or by mail, e-mail, or facsimile as requested so
10 that it is delivered ~~as described in (e)~~ at least 72 hours before the time of such meeting as
11 specified in the notice. The notice shall specify the time and place of the special meeting and
12 the business to be transacted. No other business shall be considered at such meetings.
13 Such written notice may be dispensed with as to any member who at or prior to the time the
14 meeting convenes files with the presiding officer or secretary of the body or commission a
15 written waiver of notice. ~~Such waiver may be given by telegram.~~ Such written notice may
16 also be dispensed with as to any member who is actually present at the meeting at the time it
17 convenes. Each special meeting shall be held at the regular meeting place of the policy body
18 except that the policy body may designate an alternate meeting place provided that such
19 alternate location is specified in the notice of the special meeting; further provided that the
20 notice of the special meeting of the policy body shall be given at least ~~45~~ 10 calendar days
21 prior to said special meeting being held at an alternate location. This provision shall not apply
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1 where the ~~alternative~~alternate meeting location is ~~located~~ within the same building as the
2 regular meeting place.¹¹

3 (f) Unless otherwise required by state or federal law or necessary to inspect real
4 property or personal property which cannot be conveniently brought within the territory of the
5 City and County of San Francisco or to meet with residents of property owned by the City, or
6 to meet with residents of another jurisdiction to discuss actions of the policy body that affect
7 those residents, all meetings of its policy bodies shall be held within the City and County of
8 San Francisco.¹²

9 ~~(g) If a meeting must be canceled, continued or rescheduled for any reason, notice~~
10 ~~of such change shall be provided to the public as soon as is reasonably possible, including~~
11 ~~posting of a cancellation notice in the same manner as described in section 67.7(c), and~~
12 ~~mailed notice if sufficient time permits.~~¹³

13 ~~(h)(g) Each policy body shall designate one or more posting locations for notices and~~
14 ~~agendas required by this ordinance. The Sunshine Commission for Open Government shall~~
15 ~~be so notified in writing, and shall maintain a master list of such designated posting~~
16 ~~locations.~~¹⁴

17 (gh) The initial meeting of a policy body shall be considered a regular meeting and
18 notice of the time and location of the meeting shall be given at least 10 calendar days prior to
19

20 ¹¹ Revised to provide consistency for accepted methods of delivery of notice; to allow shorter
21 advance time to provide special meeting notice to accommodate policy bodies because of
22 increased use of electronic/instantaneous notice.

23 ¹² Moved and amended from former 67.6(b).

24 ¹³ Moved to new 67.6(b).

25 ¹⁴ Revised to provide more consistency for posting notice.

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1 said initial meeting being held, and delivered personally or by mail, e-mail, or facsimile as
2 requested.¹⁵ (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

3
4 **SECTION 67.7. AGENDA REQUIREMENTS; REGULAR FOR MEETINGS OF POLICY**
5 **BODIES.**

6 (a) At least 72 hours before a ~~regular~~ meeting, a policy body shall post an agenda
7 containing a meaningful description of each item of business to be transacted or discussed at
8 the meeting. Agendas shall specify ~~for whether~~ each item of business the proposed is subject
9 to possible action or a statement the item is for discussion only. If a specific action is
10 proposed or contemplated it shall be included in the agenda item. ~~In addition, a policy body~~
11 ~~shall post a current agenda on its Internet website at least 72 hours before a regular meeting,~~
12 ~~and a link to the agenda on a "central master calendar" available on the City's website where~~
13 ~~the date, time and location of all City policy body meetings shall be listed.~~¹⁶

14 (b) A description is meaningful if it is ~~suf ficiently~~ sufficiently clear and specific to
15 alert a person of average intelligence and education whose interests are affected by the item
16 that he or she may have reason to attend the meeting or seek more information on the item.
17 The description ~~should~~ shall be brief, concise and written in plain, easily understood English.
18 It shall refer to any explanatory documents that have been provided to the policy body in
19 connection with an agenda item, such as correspondence or reports, and such documents
20 shall be posted adjacent to the agenda or, if such documents are of more than one page in

21
22 ¹⁵ Added to correct omission in Ordinance, providing notice of initial meetings.

23 ¹⁶ Revised to clarify language and to provide for a central master calendar to provide
24 accessible and consistent access to meeting information.
25

AMENDMENTS FOR 2010

Approved 6/10/2008 by the Task Force

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Approved 3/3/2010 by the Compliance and Amendments Committee

Note: Additions are double-underline, deletions are ~~double-strikethrough~~.

1 length, made available for public inspection and copying at a location indicated on the agenda
2 during normal office hours.

3 (c) The agenda shall specify the time and location of the regular meeting, ~~and shall~~
4 ~~be posted, at the main public library, and in the branch libraries in a locations that is are freely~~
5 ~~accessible to members of the public. The requirement that a policy body posts copies of its~~
6 ~~agendas at the branch libraries is satisfied if the branch library has a computer upon which~~
7 ~~members of the public can access the City's website to search for agendas of meetings of~~
8 ~~City policy bodies. The agenda shall also be posted outside the meeting room as soon as~~
9 ~~practicable but no later than the start of the meeting.~~¹⁷

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

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

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

20
21
22 ¹⁷ Revised to require posting of agendas at branch libraries, achieved through access to
23 computers and master calendar provision; provides for posting agendas outside of meeting
24 room.
25

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1 (2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or,
2 if less than two-thirds of the members are present, a unanimous vote of those members
3 present, that (A)(i) the need to take immediate action on the item is so imperative as to
4 threaten serious injury to the public interest if action were deferred to a ~~subsequent special or~~
5 ~~regular meeting, or~~ (ii) ~~er~~ relates to a purely commendatory action, and (B) that the need for
6 such action came to the attention of the body subsequent to the agenda being posted as
7 specified in subdivision (a).

8 (3) The item was on an agenda posted pursuant to subdivision (a) for a prior
9 meeting of the body occurring not more than five calendar days prior to the date action is
10 taken on the item, and at the prior meeting the item was continued to the meeting at which
11 action is being taken. In addition, notice of the continuation shall be posted with the agenda of
12 the prior meeting specifying that a particular agenda item was continued to that meeting.¹⁸

13 (f) Each board and commission enumerated in the Charter shall ensure that
14 ~~agendas for regular and special meetings are made available to speech and hearing impaired~~
15 ~~persons through telecommunications devices for the deaf, telecommunications relay services~~
16 ~~or equivalent systems, and, upon request, to sight impaired persons through Braille or~~
17 enlarged type and other material related to meetings are accessible to persons with
18 disabilities. Upon request, materials shall be made available in alternative formats. Requests
19 should be made to the secretary or clerk of the board or commission at least 48 hours prior to
20 the meeting. Requests for material in alternative formats made less than 48 hours prior to the
21 meeting shall be met when possible. All policy bodies and passive meeting bodies shall

22
23 ¹⁸ Revised to provide adequate information on the continued agenda item.
24
25

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1 comply with the guidelines and recommendations of the Mayor's Office of Disabilities
2 Accessible Public Event Checklist.¹⁹

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

5
6 KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
7 (Chapter 67 of the San Francisco Administrative Code)

8
9 ~~Government's~~Government's duty is to serve the public, reaching its decisions in full
10 view of the public. Commissions, boards, councils and other agencies of the City and County
11 exist to conduct the people's business. This ordinance assures that deliberations are
12 conducted before the people and that City operations are open to the people's review.

13
14 FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE
15 ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT
16 THE SUNSHINE COMMISSIONS~~SUNSHINE ORDINANCE TASK FORCE~~.

17
18 (h) Each agenda of a policy body covered by this ~~Sunshine Ordinance~~ shall include
19 the address, area code and phone number, fax number, e-mail address, and a contact
20 ~~person's name~~person for the Sunshine Commission ~~Sunshine Ordinance Task Force~~.

21 ¹⁹ Revised after consultation with Mayor's Office on Disability to provide that for all board and
22 commissions in Charter agendas and all materials related to meetings shall be made available
23 in alternative formats for persons with disabilities, when requested, at least 48 hours in
24 advance of meetings.

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1 Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each
2 agenda. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord.
3 185-96, App. 5/8/96; Proposition G, 11/2/99)

4 (i) Each agenda of a policy body shall state that members of the public may submit
5 statements and/or comments regarding any item on those bodies' meeting agendas; those
6 statements or comments shall become a public record, regardless of whether their authors
7 are present when the item at issue is discussed. The policy body may review and consider
8 those statements or comments if received before or during the discussion of the item.
9 Statements or comments received within ten business days after the meeting shall be
10 included in the public record with a notation as to when they were received.²⁰ (Added by Ord.
11 185-96, App. 5/8/96; amended by Proposition G, 11/2/99)

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

14 (a)~~(1)~~ Any public notice that is mailed, posted, or published by a City department,
15 board, agency, or commission to residents residing within a specific area to inform those
16 residents of a matter that may impact their property or that neighborhood area, shall be brief,
17 concise and written in plain, easily understood English.

18 ~~(b)(2)(b)~~ The notice ~~shall~~should inform the residents of the proposal or planned
19 activity, the length of time planned for the activity, the effect of the proposal or activity, and a
20 telephone contact for residents who have questions.

21 _____
22 ²⁰ Added to provide members of the public with ability to weigh in on matters before the body,
23 especially those who cannot attend meetings; consistent with the minutes requirements of
24 former Section 67.16.

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1 ~~(c)(3)(c)~~ If the notice informs the public of a public meeting or hearing, then the
2 notice shall state that persons who are unable to attend the public meeting or hearing may
3 submit to the City, by the time the proceeding begins, written comments regarding the subject
4 of the meeting or hearing, that these comments will be made a part of the official public
5 record, and that the comments will be brought to the attention of the person or persons
6 conducting the public meeting or hearing. The notice should also state the name, and
7 address, fax and e-mail address of the person or persons to whom those written comments
8 should be submitted. (Added by Ord. 185-96, App. 5/8/96; amended by Proposition G,
9 11/2/99)

11 **SECTION 67.8. AGENDA DISCLOSURES: CLOSED SESSIONS.**²¹

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

15 (a) With respect to every item of business to be discussed in closed session pursuant
16 to Government Code section 54956.9 (a), each agenda item for a policy body covered by this
17 Ordinance that involves existing litigation shall identify the court, case number, and date the
18 case was filed on the written agenda.²²

19 ~~(a)(b) In addition to the brief general description of items to be discussed or acted upon~~
20 ~~in open and public session, the agenda posted pursuant to Government Code Section~~

21 ²¹ Revised 67.8 to generally streamline and make Ordinance consistent with the current
22 Brown Act and to focus on the provisions of the Sunshine Ordinance that exceed
23 requirements under Brown Act. No substantive changes intended.

24 ²² Moved from former 67.8-1(b).

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1 ~~54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any~~
2 ~~call and notice delivered to the local media and posted pursuant to Government Code Section~~
3 ~~54956 shall specify and disclose the nature of any closed sessions by providing all of the~~
4 ~~following information:~~With respect to every item of business to be discussed in closed session
5 pursuant to Government Code section 54957:

6
7 (1) ~~With respect to a closed session held pursuant to Government Code Section~~
8 ~~54956.7:~~

9 LICENSE/PERMIT DETERMINATION:

10 applicant(s)

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

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

15
16 CONFERENCE WITH REAL PROPERTY NEGOTIATOR

17 Property:

18 Person(s) negotiating:

19 Under negotiation:

20 Price: ~~Terms of payment: Both:~~

21
22
23
24
25

AMENDMENTS FOR 2010

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

7
8 ~~(3) With respect to every item of business to be discussed in closed session pursuant~~
9 ~~to Government Code Section 54956.9, either:~~

10
11 ~~CONFERENCE WITH LEGAL COUNSEL~~

12 ~~Existing litigation:~~

13 ~~Unspecified to protect service of process~~

14 ~~Unspecified to protect settlement posture~~

15 ~~or:~~

16 ~~CONFERENCE WITH LEGAL COUNSEL~~

17 ~~Anticipated litigation:~~

18 ~~As defendant As plaintiff~~

19
20 ~~The space under "Existing litigation" shall be used to specifically identify a case under~~
21 ~~discussion pursuant to subdivision (a) of Government Code Section 54956.9, including the~~
22 ~~case name, court, and case number, unless the identification would jeopardize the City's~~
23
24
25

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

10
11 ~~(4) With respect to every item of business to be discussed in closed session pursuant~~
12 ~~to Government Code Section 54957, either:~~

13
14 ~~THREAT TO PUBLIC SERVICES OR FACILITIES~~

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

16 ~~or:~~

17 ~~PUBLIC EMPLOYEE APPOINTMENT/HIRING~~

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

19 ~~PUBLIC EMPLOYEE PERFORMANCE EVALUATION~~

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

21 ~~or:~~

22 ~~PUBLIC EMPLOYEE DISMISSAL/DISCIPLINE/RELEASE~~

23
24
25

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1 Number of employees affected:

2 of:

3

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

6

7 CONFERENCE WITH NEGOTIATOR--COLLECTIVE BARGAINING

8 Name and title of ~~City's~~City's negotiator:

9 Organization(s) representing:

10 Police officers, firefighters and airport police

11 Transit Workers

12 Nurses

13 Miscellaneous Employees

14 Anticipated issue(s) under negotiation:

15 Wages

16 Hours

17 Benefits

18 Working Conditions

19 Other (specify if known)

20 All

21

22

23

24

25

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1 Where renegotiating a memorandum of understanding or negotiating a successor
2 memorandum of ~~under standing~~understanding, the name of the memorandum of ~~under-~~
3 ~~standing~~understanding:

4 In case of multiple items of business under the same category, lines may be added and
5 the location of information may be reformatted to eliminate unnecessary duplication and
6 space, so long as the relationship of information concerning the same item is reasonably clear
7 to the reader. As an alternative to the inclusion of lengthy lists of names or other information in
8 the agenda, or as a means of adding items to an earlier completed agenda, the agenda may
9 incorporate by reference separately prepared documents containing the required information,
10 so long as copies of those documents are posted adjacent to the agenda within the time
11 periods required by Government Code Sections 54954.2 and 54956 and provided with any
12 mailed or delivered notices required by Sections 54954.1 or 54956. (Added by Ord. 265-93,
13 App. 8/18/93; amended by Proposition G, 11/2/99)

14 15 ~~SECTION 67.8-1. ADDITIONAL REQUIREMENTS FOR CLOSED SESSIONS.~~²³

16 ~~(a) All closed sessions of any policy body covered by this Ordinance shall be either~~
17 ~~audio recorded or audio and video recorded in their entirety and all such recordings shall be~~
18 ~~retained for at least TEN years, or permanently where technologically and economically~~
19 ~~feasible. Closed session recordings shall be made available whenever all rationales for~~
20 ~~closing the session are no longer applicable. Recordings of closed sessions of a policy body~~
21 ~~covered by this Ordinance, wherein the justification for the closed session is due to~~

22 _____
23 ²³ The provisions of this section have been moved in order to streamline and consolidate like
24 provision on the Ordinance.
25

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1 "~~anticipated litigation~~" shall be released to the public in accordance with any of the following
2 provisions: ~~TWO~~ years after the meeting if no litigation is filed; ~~UPON EXPIRATION~~ of the
3 statute of limitations for the anticipated litigation if no litigation is filed; ~~as soon as the~~
4 controversy leading to anticipated litigation is settled or concluded.²⁴

5 (b) Each agenda item for a policy body covered by this ordinance that involve existing
6 litigation shall identify the court, case number, and date the case was filed on the written
7 agenda.²⁵ For each agenda item for a group covered by this ordinance that involves
8 anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time
9 requested and to any member of the public whether such anticipated litigation developed into
10 litigation and shall identify the court, case number, and date the case was filed.²⁶ (Added by
11 Proposition G, 11/2/99)

12 13 **SECTION 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.**

14 (a) Agendas of meetings, meeting packets, or documents created by a department,
15 ~~and or~~ any other documents on file with the clerk or secretary of the policy body, when
16 intended for distribution to all, or a majority of all, of the members of a policy body in
17 connection with a matter anticipated for discussion or consideration at a public meeting shall
18 be made available to the public for inspection and copying at the office of the policy body at
19 least 48 hours before the hearing. ~~To the extent possible, such documents shall also be made~~
20 ~~available through the policy body's Internet site. However, this disclosure need not include an~~

21
22 ²⁴ Revised and moved to new 67.14(b), (c),

23 ²⁵ Moved to new 67.8(a).

24 ²⁶ Moved to new 67.12(e).

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1 ~~material exempt from public disclosure under this ordinance.~~ Unless demonstrably unfeasible
2 these materials shall be made available on the policy body's web site, at least 48 hours prior
3 to the meeting. Public review copies of the agenda and all related documents that constitute
4 the meeting packet shall be made available at the meeting to the public in sufficient quantities
5 commensurate with the anticipated number of people attending the hearing. The materials
6 that are distributed at the hearing shall be clearly legible of such a quality that a person with
7 20/20 vision would have no difficulty reading them.²⁷

8 (b) If any document subject to adoption, approval or award by a policy body is not
9 available at least 48 hours before the meeting at which that document is scheduled to be
10 adopted, approved or awarded and a member of the policy body requests that the matter be
11 continued, the policy body must continue the item to a time not less than 48 hours after the
12 document was made available. Nothing in this subsection shall prohibit the policy body from
13 amending a document at a meeting.²⁸

14 ~~(b) — Records which are subject to disclosure under subdivision (a) and which are~~
15 ~~intended for distribution to a policy body prior to commencement of a public meeting shall be~~
16 ~~made available for public inspection and copying upon request prior to commencement of~~
17 ~~such meeting, whether or not actually distributed to or received by the body at the time of the~~
18 ~~request.~~²⁹

20 ²⁷ Revised 67.9(a) requires that agenda packets be made available for public inspection 48
21 hours before a meeting and, where practicable, posted on a website.

22 ²⁸ New 67.9(b) requires that documents subject to adoption, approval or award by a Policy
23 Body be available at least 48 hours in advance before the meeting at which action will be
24 taken to ensure public's ability to review and prepare comment.

25 ²⁹ Moved into subsection (a) above.

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1 ~~(c)~~—Records which are subject to disclosure under subdivision (a) and which are
2 distributed during a public meeting but prior to commencement of their discussion shall be
3 made available for public inspection prior to commencement of, and during, their discussion.³⁰

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

10 ~~(e)~~(d) A policy body may charge a duplication fee of one cent per page for a copy of a
11 public record prepared for consideration at a public meeting, unless a special fee has been
12 established pursuant to the procedure set forth in Section 67.28(d). Neither this section nor
13 the California Public Records Act (Government Code sections 6250 et seq.) shall be
14 construed to limit or delay the public's right to inspect any record required to be disclosed by
15 that act, whether or not distributed to a policy body.³¹ (Added by Ord. 265-93, App. 8/18/93;
16 amended by Proposition G, 11/2/99)

SECTION 67.10. CLOSED SESSIONS: PERMITTED TOPICS.

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

20 (a) With the California Attorney General, district attorney, agency counsel, security
21 consultant, sheriff, or chief of police, or their respective deputies, on matters posing a threat to

22 ³⁰ Moved into subsection (a) above.

23 ³¹ Moved to new 67.29(f).

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1 the security of public buildings or a threat to the ~~public"~~public's right of access to public
2 services or public facilities.³²

3 (b) To consider the appointment, employment, evaluation of performance, or dismissal
4 of a City employee, if the policy body has the authority to appoint, employ, or dismiss the
5 employee, or to hear complaints or charges brought against the employee by another person
6 ~~or employee unless the employee complained of requests a public hearing. The body may~~
7 ~~exclude from any such public meeting, and shall exclude from any such closed meeting,~~
8 ~~during the comments of a complainant, any or all other complainants in the matter. If the~~
9 ~~employee, who is the subject of the discussion, requests a public hearing the hearing shall be~~
10 public.³³ The term "employee" as used in this section shall not include any elected official,
11 member of a policy body or applicant for such a position, or person providing services to the
12 City as an independent contractor or the employee thereof, including but not limited to
13 independent attorneys or law firms providing legal services to the City for a fee rather than a
14 salary.

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

22 ³² Revised to be consistent with the Brown Act.

23 ³³ Revision to clarify public employee's right to a public hearing.

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

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

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

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

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

20 (1) Such closed sessions shall be for the purpose of reviewing the ~~City's~~City's position
21 and instructing its designated representatives and may take place solely prior to and during
22 active consultations and discussions between the ~~City's~~City's designated representatives and
23
24
25

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1 the representatives of employee organizations or the unrepresented employees. A policy body
2 shall not discuss compensation or other contractual matters in closed session with one or
3 more employees directly interested in the outcome of the negotiations.

4 (2) In addition to the closed sessions authorized by subsection 67.10(e)(1), a policy
5 body subject to Government Code Section 3501 may hold closed sessions with its designated
6 representatives on mandatory subjects within the scope of representation of its represented
7 employees, as determined pursuant to Section 3504. (Added by Ord. 265-93, App. 8/18/93;
8 amended by Ord. 37-98, App. 1/23/98; Proposition G, 11/2/99)

9 10 **SECTION 67.11. STATEMENT OF REASONS FOR CLOSED SESSIONS.**

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

20 In the case of an item added to the agenda as a matter of urgent necessity, the
21 statement shall be made prior to the determination of urgency and with the same disclosures
22 and specifications as if the item had been included in the agenda pursuant to Section 67.8 of
23
24
25

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1 this article. Nothing in this section shall require or authorize a disclosure of information
2 prohibited by state or federal law. (Added by Ord. 265-93, App. 8/18/93; amended by
3 Proposition G, 11/2/99)

4 5 **SECTION 67.12. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS.**

6 (a) After every closed session, a policy body may in its discretion and in the public
7 interest, disclose to the public any portion of its discussion that is not confidential under
8 federal or state law, the Charter, or non-waivable privilege. The body shall, by motion and
9 vote in open session, elect either to disclose no information or to disclose the information that
10 a majority deems to be in the public interest. The disclosure shall be made through the
11 presiding officer of the body or such other person, present in the closed session, whom he or
12 she designates to convey the information.

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

15 (1) Real Property Negotiations: Approval given to a policy ~~body~~body's negotiator
16 concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be
17 reported as soon as the agreement is final. If its own approval renders the agreement final,
18 the policy body shall report that approval, the substance of the agreement and the vote
19 thereon in open session immediately. If final approval rests with another party to the
20 negotiations, the body shall disclose the fact of that approval, the substance of the agreement
21 and the ~~body~~body's vote or votes thereon upon inquiry by any person, as soon as the other
22 party or its agent has informed the body of its approval. If notwithstanding the final approval

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AMENDMENTS FOR 2010

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Note: Additions are double-underline, deletions are ~~double-striketrough~~.

1 there are conditions precedent to the final consummation of the transaction, or there are
2 multiple contiguous or closely located properties that are being considered for acquisition, the
3 document referred to in subdivision (b) of this section need not be disclosed until the condition
4 has been satisfied or the agreement has been reached with respect to all the properties, or
5 both.

6 (2) Litigation: Direction or approval given to the ~~body~~body's legal counsel to
7 prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise
8 enter as a party, intervenor or amicus curiae in any form of litigation as the result of a
9 consultation pursuant to Government Code Section 54956.9 shall be reported in open session
10 as soon as given, or at the first meeting after an adverse party has been served in the matter
11 if immediate disclosure of the ~~City's~~City's intentions would be contrary to the public interest.
12 The report shall identify the adverse party or parties, any co-parties with the City, any existing
13 claim or order to be defended against or any factual circumstances or contractual dispute
14 giving rise to the ~~City's~~City's complaint, petition or other litigation initiative.

15 (3) Settlement: A policy body shall neither solicit nor agree to any term in a settlement
16 which would preclude the release of the text of the settlement itself and any related
17 documentation communicated to or received from the adverse party or parties. Any written
18 settlement agreement and any documents attached to or referenced in the settlement
19 agreement shall be made publicly available at least 10 calendar days before the meeting of
20 the policy body at which the settlement is to be approved to the extent that the settlement
21 would commit the City or a department thereof to adopting, modifying, or discontinuing an
22 existing policy, practice or program or ~~otherwise acting other than to pay an amount of money~~

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1 ~~less than \$50,000 or more.~~³⁴ The agenda for any meeting in which a settlement subject to this
2 section is discussed shall identify the names of the parties, the case number, the court, and
3 the material terms of the settlement. Where the disclosure of documents in a litigation matter
4 that has been settled could be detrimental to the city~~se~~City's interest in pending litigation
5 arising from the same facts or incident and involving a party not a party to or otherwise aware
6 of the settlement, the documents required to be disclosed by subdivision (b) of this section
7 need not be disclosed until the other case is settled or otherwise finally concluded.

8 (4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the
9 resignation of a public employee in closed session pursuant to Government Code Section
10 54957 shall be reported immediately in a manner that names the employee, the action taken
11 and position affected and, in the case of dismissal for a violation of law or of the policy of the
12 City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any
13 termination of employment at the will of the employer rather than of the employee, however
14 characterized. The proposed terms of any separation agreement shall be immediately
15 disclosed as soon as presented to the body, and its final terms shall be immediately disclosed
16 upon approval by the body.

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

20 (c) Reports required to be made immediately may be made orally or in writing, but shall
21 be supported by copies of any contracts, settlement agreements, or other documents related
22

23 ³⁴ Revised to clarify. No substantive change intended.

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1 to the transaction that were finally approved or adopted in the closed session and that
2 embody the information required to be disclosed immediately shall be provided to any person
3 who has made a written request regarding that item following the posting of the agenda, or
4 who has made a standing request for all such documentation as part of a request for notice of
5 meetings pursuant to Government Code Sections 54954.1 or 54956.

6 (d) A written summary of the information required to be immediately reported pursuant
7 to this section, or documents embodying that information, shall be posted by the close of
8 business on the next business day following the meeting, in the place where the meeting
9 agendas of the body are posted. (Added by Ord. 265-93, App. 8/18/93; amended by
10 Proposition G, 11/2/99)

11 (e) For each agenda item of a policy body covered by this Ordinance that involves
12 anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time
13 requested and to any member of the public whether such anticipated litigation developed into
14 litigation and shall identify the court, case number, and date the case was filed.³⁵ (Added by
15 Proposition G, 11/2/99) [Moved from 67.8-1 (b)]

16 (f) Review of Closed Session Justifications³⁶

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

18 (1) For each closed session, each public body shall maintain a record of the date and
19 time of the closed session, the justification for the closed session and the subject matter

21 ³⁵ Moved from former 67.8-1(b).

22 ³⁶ New 67.12(f) provides a requirement for Policy Bodies to track and routinely review records
23 of closed sessions to determine when those materials may be released to the public when
24 justification for closed session no longer exists.

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1 discussed in closed session, as well as ~~and shall include~~ all minutes, recordings or other
2 records related to the closed session.

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

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

16 **SECTION 67.13. BARRIERS TO ATTENDANCE PROHIBITED.**³⁷

17 (a) No policy body shall conduct any meeting, conference or other function in any
18 facility or in a manner that excludes persons on the basis of actual or presumed class identity
19 or characteristics, or which is inaccessible to persons with ~~physical~~ disabilities, or where
20 members of the public may not be present without making a payment or purchase. Whenever

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22 ³⁷ Revised 67.13 – developed in consultation with Mayor's Office on Disability to provide for
23 enhanced accommodations and time frames for requesting accommodations; applied to all
policy bodies and not just boards and commissions enumerated in Charter.

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1 the Board of Supervisors, a board or commission enumerated in the Charter, or any
2 committee thereof anticipates that the number of persons attending the meeting will exceed
3 the legal capacity of the meeting room, any public address system used to amplify sound in
4 the meeting room shall be extended by supplementary speakers to permit the overflow
5 audience to listen to the proceedings in an adjacent room or passageway, unless such
6 supplementary speakers would disrupt the operation of a City office.

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

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

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

3 (e) All Policy Bodies ~~The Board of Supervisors~~ shall seek to provide translators at
4 each of ~~their~~ its regular meetings and all meetings of ~~their~~ its committees for each language
5 requested, where the translation is necessary to enable ~~San Francisco residents~~ members of
6 the public with limited English proficiency to participate in the proceedings provided that a
7 request for such translation services is communicated to the policy body Clerk of the Board of
8 ~~Supervisors~~ at least 48 hours before the meeting. For meetings on a Monday or a Tuesday,
9 the request must be made by noon of the last business day of the preceding week. The policy
10 body Clerk of the Board of Supervisors shall first solicit volunteers from the ranks of City
11 employees and/or from the community to serve as translators. If volunteers are not available
12 the policy body Clerk of the Board of Supervisors may next solicit translators from non-profit
13 agencies, which may be compensated. If these options do not provide the necessary
14 translation services, the policy body Clerk may employ professional translators. The
15 unavailability of a translator shall not affect the ability of the policy body Board of Supervisors
16 or its committees to deliberate or vote upon any matter presented to them. ~~In any calendar~~
17 ~~year in which the costs to the City for providing translator services under this subsection~~
18 ~~exceeds \$20,000, the Board of Supervisors shall, as soon as possible thereafter, review the~~
19 ~~provisions of this subsection.~~

20 (f) Boards and Commissions and other bodies enumerated in the Charter shall, by
21 2012 ~~2012~~ broadcast all meetings held in City Hall on the San Francisco Government TV channel
22 (or its successor) or the City's website via real-time audio streaming and/ or real-time
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1 ~~audio/video streaming on the Internet.~~ All other policy bodies are encouraged to broadcast
2 their meetings similarly as feasible.³⁸

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

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

8 **SECTION 67.14. ~~-TAPE RECORDING, FILMING AND STILL PHOTOGRAPHY.~~**³⁹

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

15 (b) All Policy Bodies ~~Each board and commission enumerated in the Charter shall~~
16 audio record each regular and special meeting, including closed sessions. Each such audio
17 recording, and any other audio or video recording of a meeting of ~~any other policy body~~ made
18 at the direction of the policy body, shall be a public record subject to inspection pursuant to
19 the California Public Records Act (Government Code Section 6250 et seq.). These recordings

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21 ³⁸ New 67.13(f) provides that boards and commissions enumerated in the Charter shall
broadcast their meetings on SFGTV by 2010 and encourages other policy bodies to do so.

22 ³⁹ Revised 67.14 provides that in light of advances in technology, recordings of meetings shall
be kept indefinitely; clarifies costs City can charge for making copies; and requires all policy
23 bodies to digitally record meetings by 2010 and post recordings on their website within 3 days.

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1 shall be kept indefinitely by the City, and shall not be erased or destroyed unless the
2 recordings are being transferred into a different format for archival or accessibility
3 requirements. and shall not be erased or destroyed. Inspection of any such recording shall
4 be provided without charge on an appropriate play back device made available by the City;
5 copies of any such recordings shall be provided upon request and payment for the actual cost
6 of the medium on which the copy is recorded. Requests shall be made through the
7 department, board, commission, task force, or committee whose meeting is recorded.
8 Requests shall be completed in the order of receipt and no additional charges shall be
9 assessed for expedited service.

10 (c) Closed session recordings, made pursuant to Section 67.14(b), shall be made
11 available whenever all rationales for closing the session are no longer applicable. Recordings
12 of closed sessions of bodies covered by this Ordinance wherein the justification for the closed
13 session is "anticipated litigation" shall be released to the public in accordance with any of the
14 following provisions: two years after the meeting if no litigation is filed; upon expiration of the
15 statute of limitations for the anticipated litigation if no litigation is filed; as soon as the
16 controversy leading to anticipated litigation is settled or concluded.⁴⁰

17 ~~(d) Within six months of the enactment of this provision, all policy bodies shall be~~
18 ~~required to digitally record their meetings by 2010. Any such digital recordings that are made~~
19 ~~shall be posted on the policy bodies' website within three days. If real time captioning is~~
20 ~~provided at a meeting, if separable, it shall also be posted on the web site. The City~~

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23 ⁴⁰ Moved from former 67.8-1(a).
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1 ~~Administrator shall assist policy bodies in carrying out their duties under this subsection.~~

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

3 (d)(e) Every City policy body, agency or department shall audio or video record every
4 noticed regular meeting, special meeting, or hearing open to the public held in a City Hall
5 hearing room that is equipped with audio or video recording facilities, except to the extent that
6 such facilities may not be available for technical or other reasons. Each such audio or video
7 recording shall be a public record subject to inspection pursuant to the California Public
8 Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed,
9 unless the recordings are being transferred into a different format for archival or accessibility
10 requirements. The City shall make such audio or video recording available in digital form at a
11 centralized location on the City's web site (www.sfgov.org) within seventy-two hours of the
12 date of the meeting or hearing and for a period of at least two years after the date of the
13 meeting or hearing. Inspection of any such recording shall also be provided without charge on
14 an appropriate play back device made available by the City. This subsection (d)(e) shall not
15 be construed to limit or in any way modify the duties created by any other provision of this
16 article, including but not limited to the requirements for recording closed sessions as stated in
17 subsection (c) Section 67.8-1 and for recording meetings of policy bodies, boards and
18 ~~commissions enumerated in the Charter~~ as stated in subsection (b) above.

21 SECTION 67.15. PUBLIC TESTIMONY.

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1 (a) Every agenda for regular and special meetings shall provide an opportunity for
2 members of the public to directly address a policy body on any items of interest to the public
3 that ~~is~~are within ~~the~~ policy body's subject matter jurisdiction, provided that no action shall be
4 taken on any item not appearing on the agenda unless the action is otherwise authorized by
5 Section 67.7(e) of this article. This provision shall apply to all meetings of the Board of
6 Supervisors and its committees. However, ~~in the case of a meeting of the Board of~~
7 ~~Supervisors, the agenda need not provide an opportunity for members of the public to~~
8 ~~address the Board on any item that has already been considered by a committee, composed~~
9 ~~exclusively of members of the Board, at a public meeting wherein all interested members of~~
10 ~~the public were afforded the opportunity to address the committee on the item, before or~~
11 ~~during the committee's consideration of the item, unless the item has been substantially~~
12 ~~changed since the committee heard the item, as determined by the policy body~~Board.⁴¹

13 (b) Every agenda for ~~special~~special meetings at which action is proposed to be
14 taken on an item shall provide an opportunity for each member of the public to directly
15 address the body concerning that item prior to action thereupon. However, in the case of a
16 meeting of the Board of Supervisors, the agenda need not provide an opportunity for
17 members of the public to address the policy body on any item that has already been
18 considered by a committee, composed exclusively of members of the policy body, at a public
19 meeting wherein all interested members of the public were afforded the opportunity to address
20 the committee on the item, before or during the committee's consideration of the item, unless
21 the item has been substantially changed since the committee heard the item, as determined

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23 ⁴¹ Moved to subsection (b) below for consistency. No substantive change intended.

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1 by the policy body.⁴² However, nothing in this subsection is intended to exempt Board of
2 Supervisors committees from the general public comment requirements under subsection (a).

3 ~~(c) However, nothing in this subsection is intended to exempt Board of Supervisors~~
4 ~~committees from the general public comment requirements under subsection (a).~~

5 (c)(~~ed~~) Time and Order of Public Speakers

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

8 (1) ~~regulations limiting the total amount of time allocated for public testimony on~~
9 ~~particular issues and for each individual speaker. Each policy body shall adopt a rule~~
10 ~~providing that each person wishing to speak on an item before the body at a regular or special~~
11 ~~meeting shall be permitted to be heard once for up to a minimum of three minutes per agenda~~
12 ~~item.~~⁴³

13 (2) If the Chair of a meeting finds that a large number of speakers wish to speak on
14 a particular item, the chair may reduce each individual speaker's time, but may not limit the
15 time to less than two minutes per speaker. The Chair shall announce any modification of the
16 three-minute minimum before public testimony on that item commences. The chair has
17 discretion to provide extra time for those who need accommodation for an interpreter or
18 because they have a disability. Time limits shall be applied uniformly consistently to members
19 of the public wishing to testify.⁴⁴

21 ⁴² Moved from subsection (a) above for consistency. No substantive change intended.

22 ⁴³ Revised to provide a minimum of three minutes public testimony in normal course.

23 ⁴⁴ Clarifies circumstances and method by which chair may set public comment to less than
24 three minutes but no less than two minutes.

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1 (3). The Chair, May Allow a Designated Speaker(s)⁴⁵

2 (A). If allowed by the chair members of the public may, for any item which is
3 agendized for adoption or discussion by any policy body, authorize a Designated
4 Speaker or Speakers, who will present the arguments regarding an issue for adoption
5 for up to 15 minutes, or for a time which is equal to the amount of time allowed to the
6 Department or presenting party, excluding the time required to answer questions posed
7 by the body. The Designated Speaker(s) and the Department or other presenting party
8 for an item to be adopted shall be allowed to speak in summary for five minutes directly
9 prior to the vote by a policy body.

10 (B). It shall be the responsibility of the designated speaker to file, with the
11 Clerk or Secretary, a Request to Authorize a Designated Speaker prior to the
12 commencement of an item and to guarantee that at least six members of the public,
13 present and prepared to speak, have designated their allotted speaking time to the
14 requester.

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

18 (4) Rules for the Order of Speakers.⁴⁶

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

22 _____
⁴⁵ Creates new procedure for designated public speaker(s).

23 ⁴⁶ Provides additional guidance and limitations on order of speakers.

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

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

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

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

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

19 (f)(~~fg~~) Members of the public shall have access to all audio-visual equipment
20 used by a department or policy body for presentations made to that policy body
21 consistent with time limits provided in subsection (c). To the extent feasible, pPrior
22 notification in the agenda or public notice that a presentation will be made using

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1 audio/visual equipment or technology shall be provided, listing the specific equipment.⁴⁷

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

4 SECTION 67.16. MINUTES.

5 (a) ~~The clerk or secretary of each board and commission enumerated in the~~
6 ~~Charter~~all policy bodies shall record the minutes for each regular and special meeting of the
7 ~~board or commission~~those bodies.⁴⁸

8 (b) ~~The minutes shall state the time the meeting was called to order, the names of~~
9 ~~the members attending the meeting,~~ time of each member's arrival if after commencement of
10 the meeting and the time of each member's departure if prior to the adjournment of the
11 meeting, the roll call vote on each matter considered at the meeting, the time the board or
12 commission began and ended any closed session, the names of the members and the
13 names, and titles where applicable, of any other persons attending any closed session, a list
14 of those members of the public who spoke on each matter if the speakers identified
15 themselves, whether such speakers supported or opposed the matter, a brief summary of
16 each person's statement during the public comment period for each agenda item, and the
17 time the meeting was adjourned. Any person ~~speaking during a public comment period may~~
18 ~~supply~~submit a brief-written summary ~~comments of their comments which~~that shall, if no
19 more than 150 words, be included in the body of the minutes or attached to the minutes and

21 _____
22 ⁴⁷ Explicitly provides public access to equipment used by city employees.

23 ⁴⁸ Revised to provide that minimum minute requirements apply to all Policy Bodies.

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1 noted in the item. The minutes shall also include the text of any resolution adopted by or
2 modified by a policy body within the body of the minutes or as an attachment.⁴⁹

3 (c) The draft minutes and any attachments thereto from of each meeting shall be
4 posted on the policy body's website and be available for inspection and copying upon request
5 no later than ten business working days after the meeting. The officially adopted minutes
6 shall be available for inspection and copying upon request no later than ten business working
7 days after the meeting at which the minutes are adopted. Upon request, minutes required to
8 be produced by this section shall be made available in Braille or increased type
9 size alternative formats for persons with disabilities. If real time captioning is provided at a
10 meeting, if separable, it shall also be posted on the web site. The City Administrator shall
11 assist policy bodies in carrying out their duties under this subsection.⁵⁰ (Added by Ord. 265-
12 93, App. 8/18/93; amended by Proposition G, 11/2/99)

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

15 Every member of a policy body retains the full constitutional rights of a citizen to
16 comment publicly on the wisdom or propriety of government actions, including those of the
17 policy body of which he or she is a member. Policy bodies shall not sanction, reprove or
18 deprive members of their rights as elected or appointed officials for expressing their
19 judgments or opinions, including those which deal with the perceived inconsistency of non-

20 _____
21 ⁴⁹ Provides increased information must be provided in the minutes to allow more information
for public review, tracking and historical research purposes.

22 ⁵⁰ Requires posting of draft minutes on policy body website, and in alternative formats where
23 available, as well as posting of any real-time captioning provided at a meeting to improve
public access and ability to monitor actions taken in public meetings.

AMENDMENTS FOR 2010

Approved 6/10/2008 by the Task Force

Note: Additions are single-underline, deletions are ~~striketrough~~.

Approved 3/3/2010 by the Compliance and Amendments Committee

Note: Additions are double-underline, deletions are ~~double-striketrough~~.

1 public discussions, communications or actions with the requirements of state or federal law or
2 of this ordinance. Every member of a policy body shall be allowed to speak freely on any
3 issue before the body subject only to time limits, which ~~may~~ shall be imposed on all members
4 equally.⁵¹ The release of specific factual information made confidential by state or federal law
5 including, but not limited to, the privilege for confidential attorney-client communications, may
6 be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor
7 seeking an accusation of misconduct, or both. (Added by Ord. 265-93, App. 8/18/93;
8 amended by Proposition G, 11/2/99)

9 10 **SECTION 67.18. SUPERVISOR OF PUBLIC FORUMS**⁵²

11 (a) Within three months of the enactment of this provision, the City Attorney's office
12 shall establish a Supervisor of Public Forums position, which can at the discretion of the City
13 Attorney be combined with the existing Supervisor of Public Records position mandated by
14 Section 67.204 of the Ordinance.

15 (b) Any person may petition the Supervisor of Public Forums for a determination
16 whether a body is a policy body or passive meeting body or whether a policy body or passive
17 meeting body has violated any provision of Article II, Public Access to Meetings, of this
18 Ordinance. The Supervisor of Public Forums shall inform the petitioner, as soon as possible
19 and within 10 calendar days, of its determination on whether a violation occurred. In reaching
20 this determination, the Supervisor of Public Records shall conduct an independent review.

21 ⁵¹ Revised to alleviate allegations of favoritism and provide equal opportunity for comment to
22 body members.

23 ⁵² New 67.18 creates new Supervisor of Public Forums, consistent with existing provisions for
24 Supervisor of Public Records.
25

AMENDMENTS FOR 2010

Approved 6/10/2008 by the Task Force

Note: Additions are single-underline, deletions are ~~strikethrough~~.

Approved 3/3/2010 by the Compliance and Amendments Committee

Note: Additions are double-underline, deletions are ~~double-strikethrough~~.

1 taking into account prior rulings, if any, of the Sunshine Commission on the issue. This
2 determination shall be in writing. Upon determination by the Supervisor of Public Forums that
3 a violation has occurred, the Supervisor of Public Forum shall immediately order the policy
4 body or passive meeting body to correct such violation as soon as possible, but no later than
5 at its next meeting. If the policy body or passive meeting body fails to comply with any such
6 order, the Supervisor of Public Forums shall notify the San Francisco Ethics Commission,
7 Board of Supervisors, District Attorney, or the ~~State~~ California Attorney General who shall take
8 whatever measures they deem necessary and appropriate to insure compliance with the
9 provision of this Ordinance. The Supervisor of Public Forums shall copy the Sunshine
10 Commission on all determinations or actions on petitions ~~correspondence pertaining to its~~
11 ~~duties~~ under this subsection.

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AMENDMENTS FOR 2008

FINALIZED 6/10/2008 by the TASK FORCE

ARTICLE III
PUBLIC INFORMATION AND PUBLIC RECORDS

- 1
2
3
4 Sec. ~~67.2019.~~ Definitions.
5 Sec. ~~67.2420.~~ Process for Gaining Access to Public ~~Records~~Information;
6 Administrative Appeals.
7 Sec. 67.21 Immediacy of Response; Immediate Disclosure
8 Sec. 67.22 Production on Incremental or "Rolling Basis"
9 Sec. ~~67.2223.~~ Release of Oral Public Information.
10 Sec. ~~67.2324.~~ Public Review File - Policy Body Communications.
11 Sec. ~~67.2425.~~ Public Information that Must Be Disclosed.
12 Sec. 67.26. Withholding Kept to a Minimum.
13 Sec. 67.27 Prohibited Basis for Withholding
14 Sec. ~~67.2728.~~ Justification of Withholding.
15 Sec. ~~67.2829.~~ Fees for Duplication.
16 Sec. 67.30 Minimum Standards; Electronic Records; Computer Systems; Web
17 Posting
18 ~~Sec. 67.29 1.33-1~~ Records and Correspondence Shall be Maintained and Shall Survive
19 Sec 67.31 Tenure and Transition of Officials.
20 ~~Sec. 67.29 5.33-3~~ Calendars of Certain Officials.
21 Sec 67.32
22 ~~Sec. 67.2933~~ Index to Records.
23 Sec 67.33.
24 ~~Sec. 67.29 4.33-2~~ Lobbyist On Behalf of the City.
25 Sec 67.34

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1 ~~Sec. 67.29-6.33-4.~~ Sources of Outside Funding.

2 Sec 67.35

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

4
5 **SECTION 67.2019. DEFINITIONS.**

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

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

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

13 (c) "Supervisor of Public Records" shall mean the City Attorney or a deputy City
14 Attorney so designated. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 375, App.
15 9/30/96; Proposition G, 11/2/99)

16
17 **SECTION 67.2420. PROCESS FOR GAINING ACCESS TO PUBLIC**
18 **RECORDSINFORMATION; ADMINISTRATIVE APPEALS.**

19 (a) Every person having custody of any public record or public information, as
20 defined herein, ~~(hereinafter referred to as a custodian of a public record)~~ shall, at normal times
21 and during normal and reasonable hours of operation, without unreasonable delay, and
22 without requiring an appointment, permit the public record, or any segregable portion of a
23 record, to be inspected and examined by any person, ~~and shall furnish one copy thereof upon~~
24
25

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1 ~~payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten~~
2 ~~cents per page.¹~~

3 (a) All City Departments and Policy Bodies that are subject to the provisions of this
4 Ordinance shall also designate an employee within that department or policy body as its
5 custodian of records ("custodian of records"). Each custodian of records shall have written
6 procedures and forms to streamline request and assist members of the public who requests
7 public records and information. The custodian of records shall have identified departmental
8 deputies to fulfill this role when the custodian of records is unavailable.²

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

18 (c) A custodian of records shall ensure that, as soon as possible but no later than
19 10 calendar days following the receipt of the request, a department, policy body or custodian
20 of records shall comply with the request by doing the following:³

21 _____
22 ¹ Language regarding cost of copies moved to new 67.29(b) to clarify and streamline
23 ordinance.

24 ² Clarifies requirements that all entities subject to the Ordinance appoint a custodian of
25 records; that the entities develop written procedures and forms to streamline handling of
26 records requests; and adds specific requirement that designated custodians of records
27 identify deputies to full the custodians' role when the custodians are unavailable.

³ Provisions broken out to clarify existing law and revised to provide reasonable timeframes
for in person review of documents and require tracking of oral requests.

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- 1 (1) If the requester seeks a copy of public records, one copy thereof shall be provided
2 upon payment of a reasonable copying charge, not to exceed the actual cost of
3 physical duplication or ten cents per page, whichever is less;
- 4 (2) If the requester seeks to inspect public records, a reasonable opportunity for the
5 requester to review the records shall be provided during normal and reasonable
6 business hours, without unreasonable delay and without requiring an appointment,
7 or at another time convenient to both the requester and the custodian of records. In
8 no event shall the custodian of records be required to set the records aside for
9 review for longer than 14 days, unless agreed to between the requester and the
10 custodian of records.
- 11 (3) If the department, policy body or custodian of records believes the record or
12 information requested is, in whole or in part, exempt from disclosure, the
13 withholding or redaction shall be justified in writing pursuant to Section 67.28 of this
14 Ordinance.
- 15 (4) An oral request for information shall be treated as a written request. Oral requests
16 that are not fulfilled by an employee immediately shall be documented as to date,
17 time, place and requester by the department, or policy body, or custodian of records
18 in order to maintain a public record of the public request.

19 (e)(d) A custodian of ~~a~~ public records shall assist a requester in identifying the
20 existence, form, and nature of any records or information maintained by, available to, or in the
21 custody of the department or policy body, custodian, whether or not the contents of those
22 records are exempt from disclosure and shall, when requested to do so, provide in writing
23 within seven days following receipt of a request, a statement as to the existence, quantity
24 amount or count, form, and nature of records, and physical or electronic location of records
25 relating to a particular subject matter ~~or questions~~ with enough specificity to enable a

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1 requester to identify records in order to make a request under (b). A custodian of any public h
2 the requested record, when or information is not in within the possession of the record
3 requested, custody or control of the department or policy body, the request shall be assist a
4 requester in directing a directed to the request to the proper office department, policy body or
5 staff person, with notification to the requester of that action.⁴

6 (e) The person seeking any records or information under this Ordinance need not
7 state his or her reason for making the request or the use to which the information will be put,
8 and requesters shall not be routinely asked to make such a disclosure. However, where a
9 requested record contains information, the majority of which is exempt from disclosure under
10 the California Public Records Act or this Ordinance, the department, policy body City Attorney
11 or custodian of records may inform the requester of the nature and extent of the exempt and
12 non-exempt information and inquire as to the requester's purpose for seeking it, in order to
13 suggest alternative sources for the information which may involve less redaction or, if
14 necessary, to otherwise prepare a response to the request.⁵

15 (d)(f) If the custodian refuses, fails to comply, or incompletely complies with a request
16 described in (b), the person making the request may petition the supervisor Supervisor of
17 Publicrecords Records for a determination whether the record requested is disclosable
18 publicin whole or in part. The Supervisor of Public Records shall inform the petitioner, as
19 soon as possible but no later than 10 calendar days after a petition is filedand within 10 days
20 of its determination., of its determination whether the record requested, or any part of the
21 record requested, is public. Where requested by the petition, and where otherwise desirable,
22 this In reaching this determination, the Supervisor of Public Records shall conduct an

23 _____
24 ⁴ Revised to clarify existing requirements and expanded to require City to identify location
25 where electronic records are maintained and require City employees to forward requests to
other entities who have or might have information responsive to requests.

⁵ Provision moved from existing 67.25.

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1 independent review, taking into account prior rulings, if any, of the Sunshine Commission on
2 the issue. This determination shall be in writing. Upon the determination by the Supervisor of
3 Public Records that the record is publicdisclosable, in whole or in part, the Supervisor of
4 Public Records shall immediately order the custodian of the public record to comply with the
5 person's request. If the custodian refuses or fails to comply with any such order within five
6 days, the Supervisor of Public Records shall notify the ~~district attorney or the attorney general~~
7 San Francisco Ethics Commission, Board of Supervisors, District Attorney, or the State
8 California Attorney General who shall take whatever measures ~~she or he deems~~ they deem
9 necessary and appropriate to insure compliance with the provisions of this ~~ordinance.~~
10 Ordinance. The Supervisor of Public Records shall copy the Sunshine Commission on all
11 determinations of actions on petitions under this subsection, all correspondence pertaining to
12 its duties under this subsection to the Sunshine Commission's public review file.⁶

13 (e)(g) If the custodian refuses, fails to comply, or incompletely complies with a request
14 described in subsection (b) above or if a petition is denied or not acted on by the ~~supervisor~~
15 Supervisor of public-Public recordsRecords, the person making the request may petition the
16 ~~Sunshine Task Force~~ Sunshine Commission for a determination whether the record requested
17 is publicdisclosable, in whole or in part. ~~The Task Force shall inform the petitioner, as soon~~
18 ~~as possible and within 2 days after its next meeting but in no case later than 45 days from~~
19 ~~when a petition in writing is received, of its determination whether the record requested, or~~
20 ~~any part of the record requested, is public. Where requested by the petition, and where~~
21 ~~otherwise desirable, this determination shall be in writing. Upon the determination that the~~
22 ~~record is public, the Sunshine Task Force shall immediately order the custodian of the public~~
23 ~~record to comply with the person's request. If the custodian refuses or fails to comply with any~~

24 ⁶ Clarifies and expands entities to which Supervisor of Records can refer orders on petitions to
25 and requires that the Sunshine Commission be kept informed of all correspondence regarding
petitions.

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1 such order within 5 days, the Sunshine Task Force shall the district attorney or the attorney
2 general who may take whatever measures she or he deems necessary to insure compliance
3 with the provisions of this ordinance. The Board of Supervisors and the City Attorney's office
4 shall provide sufficient staff and resources to allow the Sunshine Task Force to fulfill its duties
5 under this provision. Where requested by the petition, the Sunshine Task Force may conduct
6 a public hearing concerning the records request denial. An authorized representative of the
7 custodian of the public records requested shall attend any hearing and explain the basis for its
8 decision to withhold the records requested.⁷

9 (f) — The administrative remedy provided under this article shall in no way limit the
10 availability of other administrative remedies provided to any person with respect to any officer
11 or employee of any agency, executive office, department or board; nor shall the administrative
12 remedy provided by this section in any way limit the availability of judicial remedies otherwise
13 available to any person requesting a public record. If a custodian of a public record refuses or
14 fails to comply with the request of any person for inspection or copy of a public record or with
15 an administrative order under this section, the superior court shall have jurisdiction to order
16 compliance.⁸

17 (g) — In any court proceeding pursuant to this article there shall be a presumption that
18 the record sought is public, and the burden shall be upon the custodian to prove with
19 specificity the exemption which applies.⁹

20 _____
21 ⁷ Provisions regarding Sunshine Commission hearings have been moved to Article IV,
22 "Hearings and Orders of Determination." Provisions regarding the enforcement of Orders of
23 Determination have been moved to Article IV, "Administrative Enforcement." Provisions
24 regarding staffing of the Sunshine Commission have been moved to Article IV, "Responsibility
25 for Administration."

⁸ Provisions dealing with remedies have been moved to Article IV, "Administrative
Enforcement Provisions." Provisions dealing with jurisdiction and remedies in Superior Court
have been moved to Article IV, "Public Enforcement Provision."

⁹ Provisions dealing with actions in Superior Court have been moved to Article IV, "Public
Enforcement Provisions."

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1 ~~(h) — On at least an annual basis, and as otherwise requested by the Sunshine Task~~
2 ~~Force, the supervisor of public records shall prepare a tally and report of every petition~~
3 ~~brought before it for access to records since the time of its last tally and report. The report~~
4 ~~shall at least identify for each petition the record or records sought, the custodian of those~~
5 ~~records, the ruling of the supervisor of public records, whether any ruling was overturned by a~~
6 ~~court and whether orders given to custodians of public records were followed. The report~~
7 ~~shall also summarize any court actions during that period regarding petitions the Supervisor~~
8 ~~has decided. At the request of the Sunshine Ordinance Task Force, the report shall also~~
9 ~~include copies of all rulings made by the supervisor of public records and all opinions issued.~~¹⁰

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

17 ~~(j) — Notwithstanding the provisions of this section, the City Attorney may defend the~~
18 ~~City or a City Employee in litigation under this ordinance that is actually filed in court to any~~
19 ~~extent required by the City Charter or California Law.~~¹¹

20 ~~(k)(h) Release of documentary public information records, whether for inspection of the~~
21 ~~original or by providing a copy, shall be governed by the California Public Records Act~~
22 ~~(Government Code Section 6250 et seq.) in particular to the extent not addressed by this~~
23

24 ¹⁰ Provisions regarding reports by the Supervisor of Records have been moved to Article IV,
"Role of City Attorney."

25 ¹¹ Provisions regarding the role of the City Attorney have been moved to Article IV, "Role of
City Attorney."

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1 ~~ordinance-Ordinance~~ and in accordance with the enhanced disclosure requirements provided
2 in this ~~ordinance~~Ordinance.

3 (4)(i) Inspection and copying of ~~documentary-public records~~information stored in
4 electronic form shall be made available to the person requesting the information in any form
5 ~~requested-the information is held by the department or policy body, any format that has been~~
6 used by the department or policy body to create copies for its own use or for provision to other
7 agencies, or which is available to or easily generated by the department department or policy
8 body, its officers or employees, including disk, tape, printout or monitor at a charge no greater
9 than the cost of the media on which it is duplicated. Inspection of ~~documentary-public~~
10 ~~records~~information on a computer monitor need not be allowed where the information sought
11 is necessarily and ~~unseparably~~inseparably intertwined with information not subject to
12 disclosure under this ~~ordinance~~Ordinance. Nothing in this section shall require a department
13 to create a new computer program or reprogram a computer system application to that would
14 respond to a request for information or take any action to release information where the
15 ~~release of that information would violate a licensing agreement or copyright law.that would~~
16 jeopardize or compromise the security or integrity of the original record or of any proprietary
17 software in which it is maintained.¹² (Added by Ord. 265-93, App. 8/18/93; amended by Ord.
18 253-96, App. 6/19/96; Proposition G, 11/2/99)

19
20 ~~SEC. 67.21-1. POLICY REGARDING USE AND PURCHASE OF COMPUTER SYSTEMS.~~¹³

21 (a) ~~It is the policy of the City and County of San Francisco to utilize computer~~
22 ~~technology in order to reduce the cost of public records management, including the costs of~~

23 _____
24 ¹² Provision amended to be consistent with existing law and clarify that an electronic record
25 shall be provided in any format specified by the requester when the record exists or has
existed in that format.

¹³ Provision moved to new 67.30 in order to clarify and streamline Ordinance.

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1 collecting, maintaining, and disclosing records subject to disclosure to members of the public
2 under this section. To the extent that it is technologically and economically feasible,
3 departments that use computer systems to collect and store public records shall program and
4 design these systems to ensure convenient, efficient, and economical public access to
5 records and shall make public records easily accessible over public networks such as the
6 Internet.

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

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

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

14 (3) Implementing a system that permits making records available through the largest
15 non-profit, non-proprietary public computer network, consistent with the requirement for
16 security of information. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 253-96, App.
17 6/19/96; Proposition G, 11/2/99)

18
19 **SECTION 67.21. IMMEDIACY OF RESPONSE; IMMEDIATE DISCLOSURE REQUEST**¹⁴

20 (a) Maximum deadlines provided in this Ordinance are appropriate for more extensive
21 or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise
22 readily answerable request.

23
24
25 ¹⁴ Revised and new provisions on deadlines for responses, based on former 67.25, in order to
clarify and streamline Ordinance.

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1 (c)(b) Notwithstanding the 10-day period for response to a request permitted in section
2 67.204(c) of this Ordinance, a written request for information described in any category of
3 non-exempt public information shall be satisfied no later than the close of business on the day
4 following the day of the request. This deadline shall apply only if the words "Immediate
5 Disclosure Request" are placed across the top of the request and on the envelope, subject
6 line, or cover sheet in which the request is transmitted, and only if the request is received by 4
7 PM. Immediate Disclosure Requests are appropriate for records that which are readily
8 identifiable and maintained by the department or policy body in its active files. Requests to
9 inspect or for copies of documents which that must be gathered from multiple sources or
10 offices, or document maintained in a remote storage facility are not appropriate for Immediate
11 Disclosure Requests.

12 (b)(e) If the voluminous nature of the information requested, its location in a remote
13 storage facility or the need to consult with another interested department warrants an
14 extension of 14 days as provided in Government Code Section 6253(c)(1), the requester shall
15 be notified as required by the close of business on the business day following the request.
16 The requester shall be notified as required by the close of business of the length of extension,
17 the reason for the extension, and a summary of the search method and results conducted to
18 date justifying the extension.

19
20 **SECTION 67.22. PRODUCTION ON INCREMENTAL OR "ROLLING" BASIS¹⁵**

21 In response to a request under this Ordinance, the department, policy body, or
22 custodian of records shall produce any and all responsive public records as soon as
23 reasonably possible, and where requested, on an incremental or "rolling" basis such that
24

25 ¹⁵ Revised and new provisions on deadlines for responses, based on former 67.25, in order to
clarify and streamline Ordinance.

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1 responsive records are provided as soon as possible by the end of the same business day
2 that they are reviewed and collected. This section is intended to prohibit the withholding of
3 public records that are responsive to a request until all potentially responsive documents have
4 been reviewed and collected. Failure to comply with this provision is a violation of this
5 Ordinance. ~~Each custodian of a public record shall keep notes of the time and personnel~~
6 ~~used to comply with records request under this section.~~

8 **SECTION 67.2223. RELEASE OF ORAL PUBLIC INFORMATION.**

9 Release of oral public information shall be accomplished as follows:

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

20 (b) The role of the person or persons so designated shall be to provide information
21 on as timely and responsive a basis as possible to those members of the public who are not
22 requesting information from a specific person. Each public employee has a duty to respond to
23 inquiries from the public. This section shall not be interpreted to curtail existing informal
24 contacts between employees and members of the public when these contacts are occasional,
25

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1 acceptable to the employee and the department, not disruptive of the employee's ~~his or her~~
2 operational duties and confined to requests for accurate information not confidential by law.

3 (c) ~~No employee shall be required to respond to an inquiry or inquiries from an~~
4 ~~individual if~~ if it would take an the employee more than fifteen minutes to obtain the information
5 responsive to ~~the an~~ inquiry or inquiries, the employee shall notify the requester of the
6 procedures for obtaining records under sections 67.21 and 67.23 of this Ordinance, and
7 provide an appropriate form for that request if available.

8 (d) Notwithstanding any other provisions of this ordinance, public employees shall
9 not be discouraged from or disciplined for disclosing any information that is public information
10 or a public record to any journalist or any member of the public. Any public employee who is
11 disciplined for disclosing public information or a public record shall have a cause of action
12 against the City and the supervisor imposing the discipline.¹⁶ (Added by Ord. 265-93, App.
13 8/18/93; amended by Proposition G, 11/2/99)

14 (d)(e) Public employees shall not be discouraged from or disciplined for the expression
15 of their personal opinions on any matter of public concern while not on duty, so long as the
16 opinion (1) is not represented as that of the department and does not misrepresent the
17 department position; and (2) does not disrupt coworker relations, impair discipline or control
18 by superiors, erode a close working relationship premised on personal loyalty and
19 confidentiality, interfere with the employee's performance of his or her duties or obstruct the
20 routine operation of the office in a manner that outweighs the employee's interests in
21 expressing that opinion. In adopting this subdivision, the voters of the City and County of San
22 Francisco Board of Supervisors ~~intends~~ merely to restate and affirm court decisions
23 recognizing the First Amendment rights enjoyed by public employees. Nothing in this section
24

25 _____
¹⁶ Moved up from former 67.22(e).

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1 shall be construed to provide rights to City employees beyond those recognized by courts,
2 now or in the future, under the First Amendment, or to create any new private cause of action
3 or defense to disciplinary action.

4 ~~(e) — Notwithstanding any other provisions of this ordinance, public employees shall~~
5 ~~not be discouraged from or disciplined for disclosing any information that is public information~~
6 ~~or a public record to any journalist or any member of the public. Any public employee who is~~
7 ~~disciplined for disclosing public information or a public record shall have a cause of action~~
8 ~~against the City and the supervisor imposing the discipline.¹⁷ (Added by Ord. 265-93, App.~~
9 ~~8/18/93; amended by Proposition G, 11/2/99)~~

10 11 **SECTION 67.2324. PUBLIC REVIEW FILE - POLICY BODY COMMUNICATIONS.**

12 (a) The clerk of the Board of Supervisors and the clerk of each ~~board and~~
13 ~~commission enumerated in the Charter~~ policy body shall maintain a file, accessible to any
14 person during normal office hours, at the office of the policy body or at a place nearby clearly
15 designated to the public containing in a chronological order a copy of any letter, memorandum
16 or other communication which the clerk has distributed to or received from a quorum of the
17 policy body concerning a matter calendared by the body within the previous 30 days or likely
18 to be calendared within the next 30 days, irrespective of subject matter, origin or recipient,
19 except commercial solicitations, periodical publications or communications exempt from
20 disclosure under the California Public Records Act (Government Code Section 6250 et seq.)
21 and not deemed disclosable under Section 67.24 of this article.

22 (b) ~~Communications, as described in subsection (a), sent or received in the last~~
23 ~~three business days shall be maintained in chronological order in the office of the department~~
24 ~~head or at a place nearby, clearly designated to the public. After documents have been on file~~

25

¹⁷ Moved to new 67.23(d).

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1 for two full days, they may be removed, and, in the discretion of the board or commission,
2 placed in a monthly chronological file¹⁸ The identity and contact information of the sender of
3 any letter or communication shall be presumed to be public information unless confidentiality
4 is specifically requested by the sender or otherwise required by law.¹⁹

5 (c) Multiple-page reports, studies or analyses which are accompanied by a letter or
6 memorandum of transmittal need not be included in the file so long as the letter or
7 memorandum of transmittal is included. (Added by Ord. 265-93, App. 8/18/93; amended by
8 Proposition G, 11/2/99)

9
10 **SECTION 67.2425. PUBLIC INFORMATION THAT MUST BE DISCLOSED.**

11 Notwithstanding a department's~~the~~ legal discretion to withhold certain information
12 under the California Public Records Act, the following policies shall govern specific types of
13 documents and information and shall provide enhanced rights of public access to information
14 and records:

15 (a) Drafts and Memoranda.

16 (1) ~~Except as provided in subparagraph (2), no~~ No preliminary or draft document
17 and no inter or intra-agency memoranda, or department memorandum, whether in printed or
18 electronic form, shall be exempt from disclosure under Government Code Section 6254,
19 subdivision (a) or any other provision. If such a document is not normally kept on file and
20 would otherwise be disposed of, its factual content is not exempt under subdivision (a). Only
21 the recommendation of the author may, in such circumstances, be withheld as exempt. This

22
23
24 ¹⁸ Removed as duplicative of subsection (a) above.

25 ¹⁹ Added to make clear that identities will be disclosed unless confidentiality specifically requested.

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1 section is not intended to alter or extend the requirements under any document retention
2 policy adopted by a policy body or department.²⁰

3 ~~(2) Draft versions of an agreement being negotiated by representatives of the City~~
4 ~~with some other party need not be disclosed immediately upon creation but must be~~
5 ~~preserved and made available for public review for 10 days prior to the presentation of the~~
6 ~~agreement for approval by a policy body, unless the body finds that and articulates how the~~
7 ~~public interest would be unavoidably and substantially harmed by compliance with this 10 day~~
8 ~~rule, provided that policy body as used in this subdivision does not include committees. In the~~
9 ~~case of negotiations for a contract, lease or other business agreement in which an agency of~~
10 ~~the City is offering to provide facilities or services in direct competition with other public or~~
11 ~~private entities that are not required by law to make their competing proposals public or do not~~
12 ~~in fact make their proposals public, the policy body may postpone public access to the final~~
13 ~~draft agreement until it is presented to it for approval.~~²¹

14 (b) Litigation and Attorney-Client Material.

15 (1) Notwithstanding any exemptions otherwise provided by law, the following are
16 public records subject to disclosure under this Ordinance:

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

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

21 (iii) Advice on compliance with, analysis of, an opinion concerning liability or duties
22 under, or any communication otherwise concerning the California Public Records Act, the

24 _____
25 ²⁰ Revised to clarify existing legal requirements under Ordinance and expanded disclosure
requirement for drafts not normally kept, consistent with existing Public Records Act caselaw.

²¹ Moved to new 67.25(e)(8) in order to clarify and streamline Ordinance.

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1 Ralph M. Brown Act, the Political Reform Act, any San Francisco governmental ethics
2 ~~code~~ Ethics Code, or this Ordinance.

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

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

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

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

20 (2) The professional biography, curriculum vitae or job application of any applicant,
21 whether successful or not, for a position as a department head, or member of a city
22 commission, task force or other policy body~~City commissioners~~; provided that the home
23 address, home telephone number, social security number, age, and marital status of the
24 applicant shall be redacted.²²

25 _____
²² Expanded disclosure requirements for applicants to high-level positions in the City.

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1 ~~(2)~~(3) The professional biography, ~~or curriculum vitae or job application~~ of any
2 employee, provided that the home address, home telephone number, social security number,
3 age, and marital status of the employee shall be redacted.²³

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

5 ~~(4)~~(5) The exact employment classification, gross salary and City-paid benefits
6 available to every each employee identified by name, as well as salary actually earned,
7 including all overtime, compensatory time, and paid leave time.²⁴

8 ~~(5)~~(6) Any memorandum of understanding between the City or department and a
9 recognized employee organization.

10 ~~(6)~~(7) The amount, basis, and recipient of any performance-based increase in
11 compensation, benefits, or both, or any other bonus, awarded to any employee, ~~which.~~ To the
12 extent the performance-based award is granted by a policy body, the details of that award
13 shall be announced during the open session of a ~~policy body~~ policy body at which the award is
14 approved.

15 ~~(7)~~(8) The All records regarding confirmed employee of any confirmed misconduct, of
16 a public employee involving personal dishonesty, misappropriation of public funds, resources
17 or benefits, unlawful discrimination against another on the basis of status, abuse of authority,
18 or violence, and or allegations of misconduct that are of a substantial nature, as distinct from
19 the baseless or trivial, and there is reasonable cause to believe that complaint is well founded,
20 including records of any discipline or warnings imposed for such misconduct. Any
21 investigation ~~or~~ report regarding allegations of employee misconduct – whether or not the
22 investigation is conducted by or at the direction of an attorney – shall be released upon

23 Revised to clarify existing requirements.

24 Revised to clarify existing requirements.

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1 conclusion of that investigation where the allegations have been found to be substantial, even
2 if there is no ultimate finding of misconduct, no discipline imposed, or warning issued.²⁵

3 (d) Law Enforcement Information.

4 The District Attorney, Chief of Police, and Sheriff are encouraged to cooperate with the
5 press and other members of the public in allowing access to local records pertaining to
6 investigations, arrests, and other law enforcement activity. However, no provision of this
7 ordinance Ordinance is intended to abrogate or interfere with the constitutional and statutory
8 power and duties of the District Attorney and Sheriff as interpreted under Government Code
9 section 25303, or other applicable state law or judicial decision. Records pertaining to any
10 investigation, arrest or other law enforcement activity shall be disclosed to the public once the
11 District Attorney or court determines that a prosecution will not be sought against the subject
12 involved, or once the statute of limitations for filing charges has expired, whichever occurs
13 first. Notwithstanding the occurrence of any such event, individual items of information in the
14 following categories may be segregated and withheld if, on the particular facts, the public
15 interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

- 16 (1) The names of juvenile witnesses (whose identities may nevertheless be
17 indicated by substituting a number or alphabetical letter for each individual interviewed);
18 (2) Personal or otherwise private information related to or unrelated to the
19 investigation if disclosure would constitute an unwarranted invasion of privacy;
20 (3) The identity of a confidential source;
21 (4) Secret investigative techniques or procedures;
22 (5) Information whose disclosure would endanger law enforcement personnel; or
23

24 _____
25 ²⁵ Revised to conform to existing Public Records Act law and expanded to clarify that reports
conducted or requested by public agencies regarding allegations of public employee
misconduct are public records subject to release at conclusion of investigation.

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1 (6) Information whose disclosure would endanger the successful completion of an
2 investigation where the prospect of enforcement proceedings is concrete and definite.

3 This subdivision shall not exempt from disclosure any portion of any record of a
4 concluded inspection or enforcement action by an officer or department responsible for
5 regulatory protection of the public health, safety, or welfare.²⁶

6 (e) Requests, Contracts, Bids and Proposals

7 (1) All City Requests for Bids ("RFB"), Requests for Proposals ("RFP"), Requests
8 for Quotes ("RFQuote"), Requests for Information ("RFI"), and Requests for Qualifications
9 ("RFQ") and similar requests shall be posted on the City's website from the date of issuance,
10 and also kept in a central repository and shall be made available for public inspection.

11 (2) All responses to a RFQuote, RFI, and RFQ are public records that shall be
12 made public upon receipt by the City. The City is encouraged to post all responses to
13 RFQuotes, RFIs and RFQs on the City's websites.

14 (1)(3) Contracts, contractors' bids, responses to requests for proposals RFBs, RFPs
15 and all other records of communications between the department Department and persons or
16 firms seeking contracts, including the dollar amount of any contract, shall be open to
17 inspection immediately after a contract has been awarded. Within five days after a contract
18 has been awarded, the successful RFB or RFP and the contract shall also be posted on the
19 City's website. Nothing in this provision requires the disclosure of a private person's or
20 organization's net worth or other proprietary financial data submitted for qualification for a
21 contract or other benefit until and unless that person or organization is awarded the contract
22 or benefit. All bidders and contractors shall be advised that information provided which is
23 covered by this subdivision will be made available to the public upon request.

24 _____
25 ²⁶ After consultation with departments and members of the public, the disclosure requirements
for requests and contracts generally have been revised to improve clarity and provide
enhanced disclosure to facilitate public review and comment on the contracting process.

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

8 ~~(2)~~(5) Notwithstanding the provisions of this subdivision or any other provision of this
9 ordinance, the Director of Public Health may withhold from disclosure proposed and final rates
10 of payment for managed health care contracts if the Director determines that public disclosure
11 would adversely affect the ability of the City to engage in effective negotiations for managed
12 health care contracts. The authority to withhold this information applies only to contracts
13 pursuant to which the City (through the Department of Public Health) either pays for health
14 care services or receives compensation for providing such services, including mental health
15 and substance abuse services, to covered beneficiaries through a pre-arranged rate of
16 payment. This provision also applies to rates for managed health care contracts for the
17 University of California, San Francisco, if the contract involves beneficiaries who receive
18 services provided jointly by the City and University. This provision shall not authorize the
19 Director to withhold rate information from disclosure for more than three years.

20 ~~(3)~~(6) During the course of negotiations for:

21 (i) personal, professional, or other contractual services not subject to a competitive
22 process, or where ~~such~~ at the negotiations process has arrived at a stage where there is only
23 one qualified or responsive bidder;

24

25

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1 (ii) leases or permits having total anticipated revenue or expense to the City and
2 County of five hundred thousand dollars (\$500,000) or more or having a term of ten years or
3 more; or

4 (iii) any franchise agreements;
5 ~~all~~ All documents exchanged and related to the position of the parties, including draft
6 contracts, shall be made available for public inspection and copying upon request. In the
7 event that no records are prepared or exchanged during negotiations in the above-mentioned
8 categories, or the records exchanged do not provide a meaningful representation of the
9 respective positions, the ~~city attorney~~ City Attorney or ~~city~~ City representative familiar with the
10 negotiations shall, upon a written request by a member of the public, prepare written
11 summaries of the respective positions within five working days following the final day of
12 negotiation of any given week. The summaries will be available for public inspection and
13 copying. The summaries shall not be a substitute for release of the actual documents
14 exchanged between the parties.

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

22 (8) Contracts, leases or other business subject to approval by a policy body:
23 Draft versions of an agreement being negotiated by representatives of the City with another
24 party need not be disclosed immediately upon creation but must be preserved and made
25 available ~~alone~~ with the version of the agreement to be presented to the policy body for

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1 public review at least 10 days prior to the presentation of the agreement for approval by a
2 policy body, unless the body finds ~~that~~ and articulates how the public interest would be
3 unavoidably and substantially harmed by compliance with this 10 day rule, provided that
4 policy body as used in this subdivision does not include committees. In the case of
5 negotiations for a contract, lease or other business agreement in which an agency of the City
6 is offering to provide facilities or services in direct competition with other public or private
7 entities that are not required by law to make their competing proposals public or do not in fact
8 make their proposals public, the policy body may postpone public access to the final draft
9 agreement until it is presented to it for approval.²⁷

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

16 (g) ~~Neither the City nor any office, employee, or agent thereof may assert California~~
17 ~~Public Records Act Section 6255 or any similar provision as the basis for withholding any~~
18 ~~documents or information requested under this ordinance.~~²⁸

19 (h) ~~Neither the City nor any office, employee, or agent thereof may assert an~~
20 ~~exemption for withholding for any document or information based on a "deliberative process"~~
21 ~~exemption, either as provided by California Public Records Act Section 6255 or any other~~
22 ~~provision of law that does not prohibit disclosure.~~²⁹

24 ²⁷ Moved from former 67.24(a)(2).

25 ²⁸ Moved to new 67.27.

²⁹ Moved to new 67.27.

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1 (i) ~~Neither the City, nor any office, employee, or agent thereof, may assert an~~
2 ~~exemption for withholding for any document or information based on a finding or showing that~~
3 ~~the public interest in withholding the information outweighs the public interest in disclosure.~~³⁰
4 ~~All withholdings of documents or information must be based on an express provision of this~~
5 ~~ordinance providing for withholding of the specific type of information in question or on an~~
6 ~~express and specific exemption provided by California Public Records Act that is not~~
7 ~~forbidden by this ordinance. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95,~~
8 ~~App. 9/8/95; Ord. 240-98, App. 7/17/98; Proposition G, 11/2/99)~~

9
10 **Section 67.25. IMMEDIACY OF RESPONSE.**³¹

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

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

23
24
25 ³⁰ Moved to new 67.27.

³¹ Moved to new 67.28.

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1 ~~(c) The person seeking the information need not state his or her reason for making~~
2 ~~the request or the use to which the information will be put, and requesters shall not be~~
3 ~~routinely asked to make such a disclosure. Where a record being requested contains~~
4 ~~information most of which is exempt from disclosure under the California Public Records Act~~
5 ~~and this article, however, the City Attorney or custodian of the record may inform the~~
6 ~~requester of the nature and extent of the non-exempt information and inquire as to the~~
7 ~~requester's purpose for seeking it, in order to suggest alternative sources for the information~~
8 ~~which may involve less redaction or to otherwise prepare a response to the request.³²~~

9 ~~(d) Notwithstanding any provisions of California Law or this ordinance, in response~~
10 ~~to a request for information describing any category of non-exempt public information, when~~
11 ~~so requested, the City and County shall produce any and all responsive public records as~~
12 ~~soon as reasonably possible on an incremental or "rolling" basis such that responsive records~~
13 ~~are produced as soon as possible by the end of the same business day that they are reviewed~~
14 ~~and collected. This section is intended to prohibit the withholding of public records that are~~
15 ~~responsive to a records request until all potentially responsive documents have been~~
16 ~~reviewed and collected. Failure to comply with this provision is a violation of this article.~~

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

18
19 **SECTION 67.26. WITHHOLDING KEPT TO A MINIMUM.**

20 All withholdings of documents or information must be based on an express provision of
21 this ordinance providing for withholding of the specific type of information in question or on an
22 express and specific exemption provided by California Public Records Act that is not
23 forbidden by this ordinance. No record shall be withheld from disclosure in its entirety unless

24
25

³² Moved to new section 67.20(e)

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1 all information contained in it is exempt from disclosure under express provisions of this
2 Ordinance or the California Public Records Act ~~or of some other statute~~. Information that is
3 exempt from disclosure shall be masked, deleted or otherwise segregated in order that the
4 nonexempt portion of a requested record may be released, and keyed by footnote or other
5 clear reference to the appropriate justification for withholding required by section ~~67.27~~67.28
6 of this article. This work shall be done personally by the attorney or other staff member
7 conducting the exemption review. The work of responding to a public-records request and
8 preparing documents for disclosure shall be considered part of the regular work duties of any
9 city employee, and no fee shall be charged to the requester to cover the personnel costs of
10 responding to a records request. (Added by Ord. 265-93, App. 8/18/93; amended by
11 Proposition G, 11/2/99)

12 13 **SECTION 67.27. PROHIBITED BASIS FOR WITHHOLDING.**³³

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

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

21 (c) Neither the City, nor any office, employee, or agent thereof, may assert an
22 exemption for withholding for any document or information based on a finding or showing that
23 the public interest in withholding the information outweighs the public interest in disclosure.
24 All withholdings of documents or information must be based on an express provision of this

25 _____
³³ Moved from former 67.24(g), (h) and (i).

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1 ordinance providing for withholding of the specific type of information in question or on an
2 express and specific exemption provided by California Public Records Act that is not
3 forbidden by this ordinance.

5 **SECTION 67.2728. JUSTIFICATION OF WITHHOLDING.**

6 Any withholding of information shall be justified, in writing, as follows:

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

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

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

15 (d) When a record being requested contains information, most of which is exempt from
16 disclosure under this Ordinance or in the California Public Records Act and this Article, the
17 custodian shall inform the requester of the nature and extent of the nonexempt information
18 and suggest alternative sources for the information requested, if available. (Added by Ord.
19 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

20 (e) If any information is withheld under sections (a) – (d) above, the written justification
21 shall identify: a general description of the withheld information; the number of documents,
22 pages, or lines of information withheld; and provide general description of withheld
23 information, and clarify that the specific justification applicable to each piece of withheld
24 information must be provided.

25

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1 **SECTION 67.2829. FEES FOR DUPLICATION.**

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

3 (b) For documents routinely produced in multiple copies for distribution, e.g.,
4 meeting agendas, ~~and agenda packets~~ and other public records prepared for consideration at
5 a public meeting ~~related materials~~, unless a special fee has been established pursuant to
6 subdivision (d) of this section, a fee not to exceed one cent per page may be charged, plus
7 any postage costs. Neither this section nor the California Public Records Act (Government
8 Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect
9 any record required to be disclosed by that Act, whether or not distributed to a policy body.

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

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

21 (e) Copies of video, audio, or digital ~~Video copies of video-recorded meetings shall~~
22 ~~be provided to the public upon request for the actual cost of materials (i.e., tape, disk, CD,~~
23 ~~DVD) only. \$10.00 or less per meeting.~~ (Added by Ord. 265-93, App. 8/18/93; amended by
24 Proposition G, 11/2/99)

25

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1 ~~(f) A policy body may charge a duplication fee of one cent per page for a copy of a~~
2 ~~public record prepared for consideration at a public meeting, unless a special fee has been~~
3 ~~established pursuant to the procedure set forth in Section 67.29(d). Neither this section nor~~
4 ~~the California Public Records Act (Government Code sections 6250 et seq.) shall be~~
5 ~~construed to limit or delay the public's right to inspect any record required to be disclosed by~~
6 ~~that act, whether or not distributed to a policy body.~~³⁴ ~~(Added by Ord. 265-93, App. 8/18/93;~~
7 ~~amended by Proposition G, 11/2/99)~~

8
9 **SECTION 67.30. MINIMUM STANDARDS; ELECTRONIC RECORDS; COMPUTER**
10 **SYSTEMS; WEB POSTINGS.**³⁵

11 **(a) Inspection and Copying of Documentary Public Information Stored in**
12 **Electronic Form.**

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

17 (1) Inspection and copying of documentary public information stored in
18 electronic format shall be made available to the person requesting the information in
19 any format in which the information is held by the department or policy body, any
20 format that has been used by the department or policy body to create copies for its own
21 use or for provisions to other agencies, or which is easily generated by the department
22 or policy body, its officers or employees, including but not limited to any word

23
24 ³⁴ Moved from former 67.9(d).

25 ³⁵ New section combines former sections 67.21-1, and clarifies standards for computer systems and copies or access for electronic records.

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1 processing, spreadsheet, database, raw text, raw data or other software programs
2 used by or reasonably available to the department or policy body.

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

8 (3) Where public information stored in electronic form contains information
9 that is exempt from disclosure pursuant to express provisions of this Ordinance, the
10 department or policy body shall ensure that exempt information is segregated or
11 segregable from the disclosable information to allow disclosure or inspection of the
12 non-exempt information in electronic format pursuant to this section.

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

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

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

24

25

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1 **(b) Converting Records to Electronic Format**

2 When responding to Sunshine Ordinance or public record requests, every department
3 and policy body shall, if requested, and if necessary technology and equipment are available,
4 to transfer documents that are otherwise only available in hard copy/paper form into an
5 electronic format. The electronic format shall, as reasonably practicable, be that is searchable
6 and electronically archivable for delivery via electronic mail or other electronic means, and
7 posting on the department or policy body's website as appropriate.³⁶

8 9 **(c) Minimum Standards for Use, Purchase and Upgrading of Computer** 10 **Systems.**

11 (1) It is the policy of the City and County of San Francisco to utilize computer
12 technology in order to reduce the cost of public records management, including the
13 costs of collecting, maintaining, and disclosing records subject to disclosure to
14 members of the public under this Ordinance. On an ongoing basis, Departments and
15 Policy Bodies that use computer systems to collect and store public records shall
16 program and design these systems to ensure convenient, efficient, and economical
17 public access to records pursuant to subsection (a) above, including providing the
18 ability to redact or extract information specifically exempt from disclosure under this
19 Ordinance from information that is otherwise disclosable and maintained in an
20 electronic format. Departments and Policy Bodies shall also make public records
21 easily accessible over public networks such as the Internet pursuant to subsection (d)
22 below.

23
24
25 ³⁶ Creates new provision for transfer of paper records to electronic format to increase public accessibility and utility of public information where reasonable and technologically feasible.

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

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

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

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

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

16
17 **(d) Minimum Internet and Website Standards**

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

20 (1) Each department and policy body is encouraged to make publicly
21 available through its website as much information and as many documents as possible
22 concerning its activities. At a minimum, each department or policy body within six
23 months or 6 months after creation, shall post on its website all meeting notices required
24 under this Ordinance, agendas, and the minutes of all previous meetings for the last
25 three years. Notices and agendas shall be posted no later than the time that the

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1 department or policy body otherwise distributes this information to the public, allowing
2 reasonable time for posting. Minutes of meetings shall be posted as soon as possible,
3 but in any event within 48 hours after they have been approved.

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

7 (3) Each department and policy body shall make reasonable efforts to ensure
8 that its website is regularly reviewed for timeliness and updated on at least a weekly
9 basis.

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

15 ~~(5) As reasonably practicable, each department and policy body that digitally~~
16 ~~records its meeting shall post those digital recordings to its website within 48 hours.~~

17 (5)(6) The City and County shall also make available on its website, or on a
18 comparable, readily accessible location on the Internet, a current copy of the City
19 Charter and all City Codes.

20
21 ~~SECTION 67.21 131. POLICY REGARDING USE AND PURCHASE OF COMPUTER~~
22 ~~SYSTEMS.~~

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

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

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

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

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

13 ~~(3) Implementing a system that permits making records available through the~~
14 ~~largest non-profit, non-proprietary public computer network, consistent with the~~
15 ~~requirement for security of information. (Added by Ord. 265-93, App. 8/18/93; amended~~
16 ~~by Ord. 253-96, App. 6/19/96; Proposition G, 11/2/99)~~

17 18 ~~SECTION 67.29-232. INTERNET ACCESS/WORLD WIDE WEB MINIMUM STANDARDS.~~

19
20 ~~Each department of the City and County of San Francisco shall maintain on a World~~
21 ~~Wide Web site, or on a comparable, readily accessible location on the Internet, information~~
22 ~~that it is required to make publicly available. Each department is encouraged to make publicly~~
23 ~~available through its World Wide Web site, as much information and as many documents as~~
24 ~~possible concerning its activities. At a minimum, within six months after enactment of this~~
25 ~~provision, each department shall post on its World Wide Web site all meeting notices required~~

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

10 ~~(a) Unless otherwise prohibited by law, any agency that has information that~~
11 ~~constitutes an identifiable public record not exempt from disclosure pursuant to this chapter~~
12 ~~that is in an electronic format shall make that information available in an electronic format~~
13 ~~when requested by any person and, when applicable, shall comply with the following:~~

14 ~~(1) The agency shall make the information available in any electronic format~~
15 ~~in which it holds the information.~~

16 ~~(2) Each agency shall provide a copy of an electronic record in the format~~
17 ~~requested if the requested format is one that has been used by the agency to create~~
18 ~~copies for its own use or for provision to other agencies. The cost of duplication shall~~
19 ~~be limited to the direct cost of producing a copy of a record in an electronic format.~~

20 ~~(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the~~
21 ~~cost of producing a copy of the record, including the cost to construct a record, and the cost of~~
22 ~~programming and computer services necessary to produce a copy of the record when either~~
23 ~~of the following applies:~~

24
25

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1 ~~(1) In order to comply with the provisions of subdivision (a), the public~~
2 ~~agency would be required to produce a copy of an electronic record and the record is~~
3 ~~one that is produced only at otherwise regularly scheduled intervals.~~

4 ~~(2) The request would require data compilation, extraction, or programming~~
5 ~~to produce the record.~~

6 ~~(e) Nothing in this section shall be construed to require the public agency to~~
7 ~~reconstruct a record in an electronic format if the agency no longer has the record available in~~
8 ~~an electronic format.~~

9 ~~(d) If the request is for information in other than electronic format, and the~~
10 ~~information also is in electronic format, the agency may inform the requester that the~~
11 ~~information is available in electronic format.~~

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

14 ~~(f) Nothing in this section shall be construed to require the public agency to release~~
15 ~~an electronic record in the electronic form in which it is held by the agency if its release would~~
16 ~~jeopardize or compromise the security or integrity of the original record or of any proprietary~~
17 ~~software in which it is maintained.~~

18 ~~(g) Nothing in this section shall be construed to permit public access to records held~~
19 ~~by any agency to which access is otherwise restricted by statute.~~

20

21 **SECTION 67.2933. INDEX TO RECORDS.**

22 The City and County shall prepare a public records index that identifies the types of
23 information and documents maintained by City and County departments, agencies, boards,
24 commissions, and elected officers. The index shall be for the use of City officials, staff and
25 the general public, and shall be organized to permit a general understanding of the types of

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1 information maintained, by which officials and departments, for which purposes and for what
2 periods of retention, and under what manner of organization for accessing, e.g. by reference
3 to a name, a date, a proceeding or project, or some other referencing system. The index
4 need not be in such detail as to identify files or records concerning a specific person,
5 transaction or other event, but shall clearly indicate where and how records of that type are
6 kept. Any such master index shall be reviewed by appropriate staff for accuracy and
7 presented for formal adoption to the administrative official or policy body responsible for the
8 indexed records. The City Administrator shall be responsible for the preparation of this
9 records index. The City Administrator shall report on the progress of the index to the
10 ~~Sunshine Ordinance Task Force~~ Sunshine Commission on at least a semi-annual basis until
11 the index is completed. Each department, agency, commission and public official shall
12 cooperate with the City Administrator to identify the types of records it maintains, including
13 those documents created by the entity and those documents received in the ordinary course
14 of business and the types of requests that are regularly received. Each department, agency,
15 commission and public official is encouraged to solicit and encourage public participation to
16 develop a meaningful records index. The index shall clearly and meaningfully describe, with
17 as much specificity as practicable, the individual types of records that are prepared or
18 maintained by each department, agency, commission or public official of the City and County.
19 The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any
20 changes in the department, agency, commission or public official's practices or procedures
21 affecting the accuracy of the information provided to the City Administrator shall be recorded
22 by the City Administrator on a periodic basis so as to maintain the integrity and accuracy of
23 the index. The index shall be continuously maintained on the City's World Wide Website and
24 made available at public libraries within the City and County of San Francisco. (Added by Ord.
25 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

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1
2 **SECTION 67.29-133-131. RECORDS AND CORRESPONDENCE SHALL BE**
3 **MAINTAINED, AND SHALL SURVIVE TENURE AND TRANSITION OF OFFICIALS.**

4 (a) All documents prepared, received, or maintained by the Office of the Mayor, by
5 any elected ~~city~~ City and ~~county~~ County official, and by the head of any City or County
6 Department – including but not limited to those enumerated in this Section – are permanently
7 the property of the City and County of San Francisco. The originals of these documents shall
8 be maintained consistent with the records retention and accessibility policies of the City and
9 County of San Francisco. The City Attorney, or Deputy City Attorney shall monitor the
10 transition of the Mayor, members of the Board of Supervisors, selected officials, or any
11 department head when he/she leaves office to ensure that public documents are not
12 unlawfully removed or destroyed during the transition. The Mayor, elected officials and
13 departments heads ~~These records shall be maintained and preserved,~~ in a professional and
14 businesslike manner, all documents and correspondence, including but not limited to letters,
15 e-mails, drafts, memoranda, invoices, reports and proposals, and shall be disclosed all such
16 records in accordance with this Ordinance.³⁷

17 (b) The Department of Elections shall keep and preserve all records and invoices
18 relating to the design and printing of ballots, mechanical or digital vote tabulation equipment
19 and other election materials, and all records documenting who had custody of ballots from the
20 time ballots are cast until ballots are received and certified by the Department of Elections.³⁸

21 (c) In every contract, agreement or permit between the City and any outside entity
22 that authorizes that entity to demand funds or fees from citizens, the City shall ensure that
23 accurate records of every transaction are maintained and preserved in a professional and

24 ³⁷ Moved from former 67.29-7(a) and expanded to provide City Attorney oversight of
25 preservation of public information from specified high-level offices.

³⁸ Moved from former 67.29-7(b).

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1 businesslike manner, and are available to the public as public records under the provisions of
2 this ordinance. Failure of an entity to comply with these provisions shall be grounds for
3 terminating the contract or for imposing a financial penalty equal to one-half of the fees
4 derived under the agreement or permit during the duration of the failure. Failure of any
5 Department to enforce or otherwise comply with this provision shall be a violation of this
6 ordinance. This paragraph shall apply to every agreement allowing an entity to tow or
7 impound vehicles in the City or to collect any fee from any persons in any pretrial diversion
8 program.³⁹

10 ~~SECTION 67.29-2. INTERNET ACCESS/WORLD WIDE WEB MINIMUM STANDARDS.~~⁴⁰

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

24
25 ³⁹ Moved from former 67.29-7(c).

⁴⁰ Moved to new 67.30.

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1 ~~site, or on a comparable, readily accessible location on the Internet, a current copy of the City~~
2 ~~Charter and all City Codes. (Added by Proposition G, 11/2/99)~~

3 4 **SECTION 67.29-3**

5 ~~Any future agreements between the city and an advertising space provider shall be~~
6 ~~public records and shall include as a basis for the termination of the contract any action by, or~~
7 ~~permitted by, the space provider to remove or deface or otherwise interfere with an~~
8 ~~advertisement without first notifying the advertiser and the city and obtaining the advertiser's~~
9 ~~consent. In the event advertisements are defaced or vandalized, the space provider shall~~
10 ~~provide written notice to the city and the advertiser and shall allow the advertiser the option of~~
11 ~~replacing the defaced or vandalized material. Any request by any city official or by any space~~
12 ~~provider to remove or alter any advertising must be in writing and shall be a public record.⁴¹~~

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

14 15 **SECTION 67.29-433-2. LOBBYIST ON BEHALF OF THE CITY.**

16 (a) Any lobbyist who contracts for economic consideration with the City and County of
17 San Francisco to represent the City and County in matters before any local, regional, state, or
18 federal administrative or legislative body shall file a public records report of their activities on a
19 quarterly basis with the San Francisco Ethics Commission. This report shall be maintained by
20 the Ethics Commission and not be exempt from disclosure. Each quarterly report shall identify
21 all financial expenditures by the lobbyist, the individual or entity to whom each expenditure
22 was made, the date the expenditure was made, and specifically identify the local, state,
23 regional or national legislative or administrative action the lobbyist supported or opposed in
24

25 _____
⁴¹ Removed, as unnecessary and unrelated to Sunshine Ordinance.

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1 making the expenditure. The failure to file a quarterly report with the required disclosures sha.
2 be a violation of this Ordinance.

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

18 (c) Funds of the City and County of San Francisco, including organizational dues, shall
19 not be used to support any lobbying efforts to restrict public access to records, information, or
20 meetings, except where such effort is solely for the purpose of protecting the identity and
21 privacy rights of private citizens. (Added by Proposition G, 11/2/99)

22

23

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1 **SECTION 67.29-533-332. CALENDARS OF CERTAIN ELECTED OFFICIALS,**
2 **DEPARTMENT HEADS**⁴²

3 The Mayor, ~~the~~ city attorney, ~~the members~~ members of the Board of Supervisors, and
4 every ~~Department Head~~ all elected officials and department and agency heads of the City and
5 County of San Francisco who are subject to this Ordinance shall keep the following publicly
6 accessible calendars.

7 (a) ~~A shall keep or cause to be kept a daily calendar wherein is recorded~~ recording
8 the time and place of each meeting or event attended by that ~~official~~ person, with the sole
9 exclusion of purely personal or social events;

10 (i) ~~at~~ At which no city business is discussed; and

11 (ii) ~~that~~ That do not take place at City ~~Offices~~ offices or at the offices or
12 residences of people who do substantial business with or are otherwise
13 substantially financially affected by actions of the ~~city~~ City.

14 (b) ~~For meetings not otherwise publicly recorded, the calendar shall include a~~
15 general statement of issues discussed with a group – the name of the group, including the
16 name of a contact person, and a general statement or summary of matters to be discussed
17 shall be included on the calendar.

18 (c) For meetings with an individual – the individual's name and his or her business
19 or other affiliation, and a general statement or summary of matters discussed shall be
20 included on the calendar, unless disclosing the individual's name or other identifying
21

22 _____
23 ⁴² Provision revised to expand category of officials who must maintain calendars with certain
24 minimum information and clarify that Ordinance established a minimum of what information
25 must be maintained on specific officials' calendars and must be released within a specific,
expedited timeframe. Revisions also clarify that this provision does not exempt from
disclosure any other calendar or calendaring information that is maintained on City systems
by City employees or officials.

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1 information would violate a need for confidentiality imposed by law or on the facts of a
2 particular circumstance.

3 (d) ~~Such calendars shall be~~ are public records and shall be available to a requester
4 ~~three business days subsequent to the calendar entry date~~ be available to any requester three
5 business days subsequent to the calendar entry date. posted to the Department or Elected
6 Official's web site at the state of each business day.

7 (e) To the fullest extent practicable, the calendars and information required by this
8 section shall be also posted on the department or elected official's website at the start of each
9 business day, but each public official subject to this section is encouraged to post his or her
10 calendar as far in advance as possible. Each public official subject to this section is
11 encouraged to post his or her calendar in as far in advance as is practicable. (Added by
12 Proposition G, 11/2/99)

13 (f) Nothing in this section shall exempt from disclosure any calendar or calendar
14 information used for official city business that is kept by any employee or official.

15
16 **SECTION 67.29-633-4. SOURCES OF OUTSIDE FUNDING.**

17 No official or employee or agent of the city ~~City~~ shall accept, allow to be collected, or
18 direct or influence the spending of, any money, or any goods or services worth more than one
19 hundred dollars in aggregate, for the purpose of carrying out or assisting any City function
20 unless the amount and source of all such funds is disclosed as a public record and made
21 available on the website for the department to which the funds are directed. When such funds
22 are provided or managed by an entity, and not an individual, that entity must agree in writing
23 to abide by the disclosure requirement of this ordinance Ordinance. The disclosure shall
24 include the names of all individuals or organizations contributing such money and a statement
25

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1 as to any financial interest the contributor has involving the City. (Added by Proposition G,
2 11/2/99)

3 4 ~~SECTION 67.29-7. CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.~~

5 ~~(a) — The Mayor and all Department Heads shall maintain, and preserve, in a~~
6 ~~professional and businesslike manner all documents and correspondence, including but not~~
7 ~~limited to letters, e-mails, drafts, memorandum, invoices, reports and proposals and shall~~
8 ~~disclose all such records in accordance with this ordinance.⁴³~~

9 ~~(b) — The Department of Elections shall keep and preserve all records and invoices~~
10 ~~relating to the design and printing of ballots and other election materials and shall keep and~~
11 ~~preserve records documenting who had custody of ballots from the time ballots are cast until~~
12 ~~ballots are received and certified by the Department of Elections.⁴⁴~~

13 ~~(c) — In any contract, agreement or permit between the City and any outside entity~~
14 ~~that authorizes that entity to demand any funds or fees from citizens, the City shall ensure that~~
15 ~~accurate records of each transaction are maintained in a professional and businesslike~~
16 ~~manner and are available to the public as public records under the provisions of this~~
17 ~~ordinance. Failure of an entity to comply with these provisions shall be grounds for~~
18 ~~terminating the contract or for imposing a financial penalty equal to one half of the fees~~
19 ~~derived under the agreement or permit during the period of time when the failure was in effect.~~
20 ~~Failure of any Department Head under this provision shall be a violation of this ordinance.~~
21 ~~This paragraph shall apply to any agreement allowing an entity to tow or impound vehicles in~~
22 ~~the City and shall apply to any agreement allowing an entity to collect any fee from any~~
23 ~~persons in any pretrial diversion program.⁴⁵ (Added by Proposition G, 11/2/99)~~

24 ⁴³ Moved to new 67.33(a) and expanded.

25 ⁴⁴ Moved to new 67.33(b).

⁴⁵ Moved to new 67.33(c).

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ARTICLE IV
POLICY IMPLEMENTATION

1
2
3
4
5 Sec. ~~67.30.34~~ The ~~Sunshine Ordinance Task Force~~ Sunshine Commission

6 Sec. ~~67.31.35~~ Responsibility for Administration.

7 Sec. ~~67.32.36~~ Provision of Services to Other Agencies; Sunshine Required.

8 Sec. ~~67.33.37~~ ~~Department Head~~ Open Government Declaration.

9 Sec. 67.38 Role of City Attorney's Office; Advice Shall Be Public Information

10 Sec. 67.39 Hearing and Orders of Determination

11 Sec. 67.40 Administrative Enforcement Provisions

12 Sec. ~~67.34.41~~ Willful Failure Shall be Official Misconduct.

13 Sec. 67.42 Referrals and Enforcement by the Ethics Commission

14 Sec. ~~67.35.43~~ Public Enforcement Provisions.

15 Sec. ~~67.36.44~~ Sunshine Ordinance Supersedes Other Local Laws.

16 Sec. ~~67.37.45~~ Severability.

17 Sec. ~~67A.1~~ Prohibiting the use of Cell Phone, Pagers and Similar Sound-Producing
Electrical Devices at and During Public Meetings

18
19 **SECTION 67.3034. THE SUNSHINE ORDINANCE TASK FORCE COMMISSION**

20 (a) There is hereby established a ~~task force to be known as the Sunshine~~
21 ~~Ordinance Task Force~~ Sunshine Commission consisting of eleven voting members appointed
22 by the Board of Supervisors. All members must have experience and/or demonstrated
23 interest in the issues of citizen access and participation in local government. Two members
24 shall be appointed from individuals whose names have been submitted by the local chapter of
25 the Society of Professional Journalists, one of whom shall be an attorney and one of whom

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1 shall be a local journalist. One member shall be appointed from the press or electronic media.
2 One member shall be appointed from individuals whose names have been submitted by the
3 local chapter of the League of Women Voters. ~~Six~~^{Four} members shall be members of the
4 public who have demonstrated interest in or have experience in the issues of citizen access
5 and participation in local government. ~~Two members shall be members of the public~~
6 ~~experienced in consumer advocacy obtaining public information from government agencies.~~
7 One member shall be a journalist from a racial/ethnic-minority-owned news organization and
8 shall be appointed from individuals whose names have been submitted by New California
9 America Media. ~~At all times the task force~~ The Commission shall include, when possible, at
10 least one member ~~who shall be a member of the public with a disability as defined by the~~
11 Federal Americans with Disabilities Act who is physically handicapped and who has
12 ~~demonstrated interest in citizen access and participation in local government.~~ The Mayor or
13 his or her designee, ~~and~~ and the Clerk of the Board of Supervisors or his or her designee,
14 shall serve as non-voting members of the ~~task force~~ Commission.¹ ~~The City Attorney shall~~
15 ~~serve as legal advisor to the task force.~~ The ~~Sunshine Ordinance Task Force~~ shall, at its
16 request, ~~have assigned to in an attorney from within the City Attorney's Office or other~~
17 ~~appropriate City Office, who is experienced in public access law matters.~~ This attorney shall
18 ~~serve solely as a legal advisor and advocate to the Task Force and an ethical wall will be~~
19 ~~maintained between the work of this attorney on behalf of the Task Force and any person or~~
20 ~~Office that the Task Force determines may have a conflict of interest with regard to the~~
21 ~~matters being handled by the attorney.~~²

22

23

24 ¹ Revisions to reflect name change to New American Media; by adding the words "when
25 possible," removes absolute requirement that the Commission at all times include a voting
member who has an ADA-defined disability; and clarifies existing provisions.

² References to City Attorney moved to new 67.38, "Role of City Attorney."

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1 (b) The term of each appointive member shall be two years ~~unless earlier removed~~
2 ~~by the Board of Supervisors. In the event of such removal or in the event a vacancy otherwise~~
3 occurs during the term of office of any appointive member, a successor shall be appointed for
4 the unexpired term of the office vacated in a manner similar to that described herein for the
5 initial members. The ~~task force~~ Commission shall elect a chair and vice chair from among its
6 ~~appointive-voting~~ members. The term of office ~~as for the chair and vice chair~~ shall be one
7 year. Members of the ~~task force~~ Commission shall serve without compensation.

8 (c) The ~~task force~~ Commission shall advise the Board of Supervisors ~~and provide~~
9 ~~information to other City departments, the office of the Mayor and other City departments on~~
10 appropriate ways in which to implement this chapter. The ~~task force~~ Commission shall
11 develop appropriate goals to ensure practical and timely implementation of this chapter. The
12 ~~task force~~ Commission shall propose to the Board of Supervisors amendments to this chapter
13 and solicit advice from City officials, employees and members of the public on ways to
14 improve the Ordinance. The ~~task force~~ Commission shall report to the Board of Supervisors
15 at least once annually on any practical or policy problems encountered in the administration of
16 this chapter. The ~~Task Force~~ Commission shall receive and review the annual reports of the
17 Supervisor(s) of Public Records and Public Forums, and may request additional reports or
18 information as it deems necessary. The ~~Task Force~~ Commission ~~shall may~~ make referrals to
19 a municipal office or any other appropriate body or official, including the Ethics Commission,
20 District Attorney and the ~~State~~ California Attorney General with enforcement power under this
21 Ordinance or under the California Public Records Act and the Brown Act whenever it
22 concludes that any person has violated any provisions of this Ordinance or the Acts. The
23 ~~Task Force~~ Commission shall, from time to time as it sees fit, issue public reports evaluating
24
25

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1 compliance with this ordinance and related California laws by the City or any
2 ~~Department~~department, ~~Office~~office, or ~~Official~~official thereof.³

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

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

9 ~~(d)~~(e) In addition to the powers specified above, the ~~Task Force~~ Commission shall
10 possess such powers as the Board of Supervisors may confer upon it by ordinance or as the
11 People of San Francisco shall confer upon it by initiative. (Added by Ord. 265-93, App.
12 8/18/93; amended by Ord. 118-94, App. 3/18/94; Ord. 432-94, App. 12/30/94; Ord. 287-96,
13 App. 7/12/96; Ord. 198-98, App. 6/19/98; 387-98, App. 12/24/98; Proposition G, 11/2/99)

14
15 **SECTION 67.3435. RESPONSIBILITY FOR ADMINISTRATION.**

16 The Mayor shall administer and coordinate the implementation of the provisions of this
17 chapter for departments under his or her control. ~~The Mayor shall administer and coordinate~~
18 ~~the implementation of the provisions of this chapter~~ and for departments under the control of
19 boards and commissions appointed by the Mayor. Elected officers shall administer and
20 coordinate the implementation of the provisions of this chapter for departments under their
21 respective control. The Board of Supervisors shall provide sufficient staff, facilities, equipment
22 and any other resources to enable the Sunshine Commission to fulfill its duties under this
23 Ordinance.⁴ ~~The Clerk of the Board of Supervisors shall provide a full-time staff at least one~~

24
25 ³ Clarified and makes consistent with other parts of Ordinance the bodies to which referrals may be made by the Commission.

⁴ Language moved from former 67.21(e) in order to clarify and streamline Ordinance.

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1 full time staff person, who shall be the Administrator of the Commission, to perform
2 administrative duties for the ~~Sunshine Ordinance Task Force~~ Commission including and to
3 ~~assist~~ assisting any person in gaining access to public meetings or public information. The
4 Administrator of the Commission and shall have no other duties.⁵ ~~The Clerk of the Board of~~
5 ~~Supervisors shall provide that staff person with whatever facilities and equipment are~~
6 ~~necessary to perform said duties.~~ (Added by Ord. 265-93, App. 8/18/93; amended by Ord.
7 287-96, App. 7/12/96; Proposition G, 11/2/99)

8
9 **SECTION 67.3236. PROVISION OF SERVICES TO OTHER AGENCIES; SUNSHINE**
10 **REQUIRED.**

11 (a) It is the policy of the City and County of San Francisco to ensure opportunities for
12 informed civic participation embodied in this Ordinance to all local, state, regional and federal
13 agencies and institutions with which it maintains continuing legal and political relationships.
14 Officers, agents and other representatives of the City shall continually, consistently and
15 assertively work to seek commitments to enact open meetings, public information and citizen
16 comment policies by these agencies and institutions, including but not limited to the Presidio
17 Trust, the San Francisco Unified School District, the San Francisco Community College
18 District, the San Francisco Transportation Authority, the San Francisco Housing Authority, the
19 Treasure Island Development Authority, the San Francisco Redevelopment Authority and the
20 University of California campuses operating within the City. To the extent not expressly
21 prohibited by law, copies of all written communications with the above identified entities and
22 any City employee, officer, agents, ~~or and~~ and/or representative, shall be accessible as public
23 records. To the extent not expressly prohibited by law, any meeting of the governing body of

24 _____
25 ⁵ Adds language specifying that requirements to provide the Commission with certain
resources are minimum requirements, and that the Commission Administrator is to have no
duties besides those performed on the Commission's behalf.

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1 any such agency and institution at which City officers, agents or representatives are present in
2 their official capacities shall be open to the public, and this provision cannot be waived by any
3 City officer, agent or representative.

4 (b) ~~The city~~ City shall give no subsidy in money, tax abatements, land, or services
5 to any ~~private private for profit~~ entity unless that ~~private private~~ entity agrees in writing to
6 provide agrees in writing to provide and provides the ~~city~~ City with financial projections
7 (including profit and loss figures), and annual audited financial statements for the project or
8 development thereafter, for the project upon for which the subsidy is ~~based~~ proposed or
9 provided and all such projections and financial statements shall be public records that must be
10 disclosed. (Added by Proposition G, 11/2/99)

11
12 **SECTION 67.3337. DEPARTMENT HEAD OPEN GOVERNMENT DECLARATION.**

13 All City department heads and all City management employees and all employees or
14 officials who are required to sign an affidavit of financial interest with the Ethics Commission
15 shall sign an annual affidavit or declaration stating under penalty of perjury that they have
16 read the Sunshine Ordinance and have attended or will attend when next offered, a training
17 session on the Sunshine Ordinance, to be held at least once annually. The affidavit or
18 declarations shall be maintained by the Ethics Commission and shall be available as a public
19 record. Annual training shall be provided by the San Francisco City Attorney's Office in
20 consultation with the ~~with the assistance of the Sunshine Ordinance Task Force~~ Sunshine
21 Commission. (Added by Proposition G, 11/2/99) All materials and training plans shall be
22 approved by the Sunshine Commission annually.

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1 **SECTION 67.38. ROLE OF CITY ATTORNEY'S OFFICE; ADVICE SHALL BE PUBLIC**
2 **INFORMATION.**⁶

3 (a) The City Attorney shall serve as legal advisor to the Commission. The
4 Commission shall, at its request, have assigned to it an attorney from the City Attorney's
5 Office or other appropriate City office, who is experienced and well informed in public-access
6 law matters. This attorney shall serve solely as a legal advisor and advocate to the
7 Commission and when requested by the Commission, shall provide opinions and other advice
8 on legal issues that the Commission deems pertinent. An ethical wall will be maintained
9 between the work of this attorney on behalf of the Commission and any person or office that
10 the Commission determines may have a conflict of interest with regard to the matters being
11 handled by the attorney.

12 (b) The City Attorney's office shall act to protect and secure the rights of the people
13 of San Francisco to access public information and public meetings and shall not act as legal
14 counsel for any City employee or any person having custody of any public information for
15 purposes of denying access to public meetings or public information.

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

23
24
25 ⁶ New section incorporates language moved from Articles II and III to clarify and streamline ordinance.

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

4 (e) Every year on September 30, and as otherwise requested by the Sunshine
5 Commission, the Supervisor of Public Records and Supervisor of Public Forums shall prepare
6 a tally and report of every petition brought before it for access to records and public forum
7 questions since the time of its last tally and report. The report shall at least identify for each
8 petition the record or records sought, the custodian of those records, the public forum
9 question presented, the ruling of the Supervisor of Public Records and Supervisor of Public
10 Forums, whether any ruling was overturned by a court and whether each order given to a
11 custodian of public records and/or any employee, official, department, agency, or policy body
12 was complied with. The report shall also summarize any court actions during that period
13 regarding petitions the Supervisor of Public Records or Supervisor of Public Forums have
14 decided as well as court actions regarding or implicating the Sunshine Ordinance. The report
15 shall also include copies of all rulings made by the Supervisor of Public Records and
16 Supervisor of Public Forums and all opinions issued.⁷

SECTION 67.39. HEARINGS AND ORDERS OF DETERMINATION.⁸

19 (a) The Sunshine Commission shall conduct administrative hearings on complaints
20 of alleged violations this Ordinance, the California Public Records Act, or the Brown Act. The
21 Commission may issue Orders of Determination following the hearing on a particular
22 complaint. If the Commission determines on the basis of substantial evidence presented

23 ⁷ Provision moved from former 67.21(h) and expanded to cover new Supervisor of Public
24 Forums and relevant open government legal decisions.

25 ⁸ New section incorporates language moved from Articles II and III in order to clarify and
streamline the Ordinance and revises language to specify levels of evidence necessary to
sustain findings of violation and Orders of Determination.

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1 during the hearing that a violation of the Ordinance, the California Public Records Act or the
2 Brown Act has occurred, it shall issue an Order of Determination with written findings of fact
3 and law. The Order of Determination shall issue to the Complainant and the Respondent and
4 shall be posted on the Sunshine Commission's website.

5 (b) To the extent not prohibited by State law the Commission may subpoena
6 witnesses, compel their attendance and testimony, administer oaths and affirmation, take
7 evidence and require by subpoena the production of any books, papers, records or other
8 items material to the performance of the Commission's duties or exercise of its powers.⁹

9 (c) An authorized representative of the respondent employee, official, department,
10 agency, policy body, or custodian of public record who has personal knowledge of the matters
11 alleged in the complaint shall attend each Commission hearing and Commission committee
12 hearing to explain the response to the request for access to public meetings or public
13 information, as well as provide a detailed description of the records search conducted, and the
14 statutory or case law basis for any decision to withhold or redact the records requested, or to
15 bar public attendance at and/or participation in the meeting(s), as applicable.¹⁰

16

17 **SECTION 67.40. ADMINISTRATIVE ENFORCEMENT PROVISIONS.¹¹**

18 (a) Upon issuance of an Order of Determination finding that a record should be
19 released or other action should be taken by an employee, official, department, agency, policy
20 body or custodian of public records, the Sunshine Commission shall immediately order the

21 _____
22 ⁹ Based on legal advice provided by DCA Ernest Llorente that Commission as currently
23 appointed and constituted could appropriately have such powers, revision provides subpoena
24 power if necessary to secure sufficient evidence to reach a determination on a complaint.

25 ¹⁰ Expands on provision in former 67.21 requiring attendance at hearings and clarifies that
respondent's representative must have personal knowledge of the facts and legal authority
underlying its response.

¹¹ New section incorporates language from Articles II and III in order to clarify and streamline
Ordinance.

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1 person or entity to comply with the Order of Determination. If the person or entity fails to
2 comply with any such Order within 5 business days after issuance, the Sunshine Commission
3 may refer the matter to the San Francisco Ethics Commission, Board of Supervisors, District
4 Attorney or the ~~State~~ California Attorney General or other appropriate enforcement body who
5 may take whatever measures they deem necessary to insure compliance with the Order of
6 Determination.¹²

7 (b) Upon issuing an Order of Determination, the Commission may require the
8 governing entity to which the person or entity that has violated the Ordinance reports, to
9 schedule at the governing entity's next regularly scheduled meeting the Order of
10 Determination for its discussion and response.¹³

11 (c) Upon issuing an Order of Determination, the Commission may require the
12 governing entity or department to which the person or entity that has violated the Ordinance
13 reports, to post the Order of Determination prominently on the entity's or department's website
14 for 60 days.¹⁴

15 (d) (1) Upon finding a serious and willful violation of this Ordinance, the Commission
16 by not less than a two-thirds vote of the voting members may appoint outside counsel to
17 prosecute the violation(s) of the Ordinance by bringing an action in the Civil Courts to the
18 extent permitted by the City Charter.¹⁵

21 ¹² Revises list of bodies to whom referrals can be made to in order to clarify and make
22 Ordinance consistent.

23 ¹³ New provision to require public hearing by Commissions and policy bodies on Orders of
24 Determination issued by Commission.

25 ¹⁴ New provisions providing for public disclosure of Order of Determination issued by
Commission.

¹⁵ New provisions providing for appointment and funding of outside counsel to allow
Commission to enforce serious and willful violations of the Ordinance against respondents
who fail to comply with Orders of Determination.

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1 (2) The amount of expenditure for outside counsel to prosecute these cases
2 shall not exceed \$50,000 per fiscal year or such greater amount authorized by the Board of
3 Supervisors ("litigation fund"). The Commission shall include it in its bylaws selection criteria
4 criteria for selection and oversight of appointed counsel and expenditures.

5 (3) If attorney fees are recovered in litigation proceedings initiated under this
6 provision, fees in the amount paid out of the litigation fund to outside counsel for the litigation
7 shall be credited back into the litigation fund.

8 (e) The administrative remedies provided under this Ordinance shall in no way limit
9 the availability of other administrative remedies provided to any person with respect to any
10 officer or employee of any agency, executive office, department or policy body; nor shall the
11 administrative remedy provided by this section in any way limit the availability of judicial
12 remedies otherwise available to any person. If a custodian of a public record refuses or fails to
13 comply with the request of any person for inspection or copy of a public record or with an
14 Order of Determination under this Ordinance, the Superior Court shall have jurisdiction to
15 order compliance.¹⁶

16 (f) An Order of Determination shall be evidence of a violation of this Ordinance or
17 other applicable open government law in any other administrative or judicial proceeding, and
18 factual findings made during the hearing shall be reviewed for abuse of discretion.¹⁷

19
20 **SECTION 67.3441. WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT.**

21 The willful failure of any elected official, department head, or other managerial city
22 employee to person, office or entity to discharge any duties imposed by the Sunshine
23 Ordinance, the Brown Act or the California Public Records Act shall be deemed official

24 ¹⁶ Provision moved from former 67.21(f).

25 ¹⁷ New provision provides specific standard for review of Commission Orders of Determination
in subsequent administrative, municipal, or legal proceedings.

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1 misconduct for purposes of this Ordinance and any other applicable provisions of the City
2 Charter, Ordinances, and State law. If the Commission makes a determination that any
3 person or entity has willfully failed to discharge any such duties, then the Commission shall
4 refer with written findings of law and fact the matter to the Ethics Commission for
5 enforcement. The Commission may also refer the matter by to the Board of Supervisors,
6 District Attorney or the ~~State~~ California Attorney General for investigation and enforcement.
7 ~~Complaints involving allegations of willful violations of this ordinance, the Brown Act or the~~
8 ~~Public Records Act by elected officials or department heads of the City and County of San~~
9 ~~Francisco shall be handled by the Ethics Commission.~~¹⁸ (Added by Proposition G, 11/2/99)

10
11 **SECTION 67.42. REFERRALS AND ENFORCEMENT BY THE ETHICS COMMISSION.**¹⁹

12 (a) The Ethics Commission is authorized to enforce the Orders of Determination of
13 the Sunshine Commission. Upon referral of any Order of Determination to the Ethics
14 Commission, the following procedures and standards shall apply.

15 (i) The Chair or Vice-Chair of the Commission and the underlying complainant in
16 whose favor the Commission's Order of Determination was issued, shall both be considered
17 the "complainant of record" for purposes of Ethics Commission investigations and
18 enforcement of Orders of Determination.

19 (ii) Any public officer, employee, agency, policy body or department that willfully
20 fails to discharge any duties imposed by the Sunshine Ordinance, the Brown Act or the
21 California Public Records Act shall be deemed to have committed official misconduct.

22
23 ¹⁸ Clarifies that findings of willful failure to comply with Ordinance may be referred to Ethics
24 Commission, but also other entities for further proceedings.

25 ¹⁹ New provision specifies procedures by which referrals from the Commission shall be
investigated and enforced by the Ethics Commission. Adds new enforcement mechanisms
and penalties that may or must be imposed by the Ethics Commission.

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

5 (iv) Any agency, policy body or department found to have committed official
6 misconduct under this Ordinance shall be fined at least \$500, and up to \$5,000 depending
7 upon the seriousness of the misconduct.

8 (v) ~~Upon referral~~ The Sunshine Commission may, in a referral of a finding of
9 official misconduct, recommend the level of fines that may be imposed.

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

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

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

19
20 **SECTION 67.3543. PUBLIC ENFORCEMENT PROVISIONS.** ²⁰

21 (a) In any court proceeding pursuant to this Ordinance there shall be a presumption
22 that the information sought is disclosable, that any meeting or portion of a meeting should be
23 open to the public as well as the records of such meeting, and the burden shall be upon the
24

25 ²⁰ New provision incorporates existing language from Articles II and III in order to clarify and streamline Ordinance.

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1 respondent to prove with specificity that they have fully complied with the Ordinance request
2 and/or that an exemption to disclosure applies.

3 (ab) Any person may ~~institute~~ commence proceedings for injunctive relief,
4 declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her
5 right to inspect or to receive a copy of any public record or class of public records under this
6 Ordinance or to enforce his or her right to attend any meeting required under this Ordinance
7 to be open, or to compel such meeting to be open. Filing a complaint with the Sunshine
8 Commission or exhausting the Commission complaint and hearing procedures is not a
9 prerequisite to filing an action under this subsection.²¹

10 (c) Any person may commence proceedings for injunctive relief, declaratory relief,
11 or writ of mandate in any court of competent jurisdiction for purposes of obtaining a judicial
12 determination that an action taken by a policy body in violation of this Ordinance is null and
13 void under this section. Nothing in this chapter shall be construed to prevent a policy body
14 from curing or correcting an action challenged pursuant to this section.²²

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

19 (i) Written demand shall be made within 30 calendar days from the date the action
20 was taken.

21 _____
22 ²¹ Revises and clarifies existing language in Ordinance.

23 ²² New provision creating a right to judicial review of alleged public meeting violations, but only
24 after cure and correct provisions are complied with. Provides method by which members of
25 public can seek enforcement of enhanced public meeting provisions in the Sunshine
Ordinance through procedures that are consistent with the procedural requirements of the
Brown Act.

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1 (ii) Within 45 calendar days of receipt of the demand, the policy body shall cure or
2 correct the challenged action and inform the complainant in writing of its actions
3 to cure or correct or inform the complainant in writing of its decision not to cure
4 or correct the challenged action.

5 (iii) If the policy body takes no action within the 45-calendar-day period, the inaction
6 shall be deemed a decision not to cure or correct the challenged action.

7 (iv) The complainant who receives notice of the policy body's decision not to cure or
8 correct the challenged action, or if the policy body takes no action within the 45-
9 calendar-day period, may file a complaint with the Sunshine Commission. If the
10 Sunshine Commission finds that the policy body violated the Ordinance, the
11 complainant may commence an action pursuant to subsection (b). The Sunshine
12 Commission shall not have authority to void an action of a policy body, but filing
13 a complaint and exhausting the Commission's complaint and hearing
14 procedures is a prerequisite to filing an action under subsection (b).

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

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

19 (dg) Any person may institute proceedings for enforcement and penalties under this
20 ~~act in any court of competent jurisdiction or Ordinance~~ before the Ethics Commission if
21 ~~enforcement action is not taken by a city or state official 40 days after a complaint is filed~~60
22 calendar days after an Order of Determination was issued by the Sunshine Commission, the
23 City department, entity, official, body or employee has not complied with the Order of
24
25

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1 Determination issued by the Sunshine Commission.²³ The Ethics Commission shall apply the
2 same procedures and standards, and conduct such proceedings in the same manner and
3 under the same rules as it would have conducted them upon a referral from the Sunshine
4 Commission for enforcement of such Order of Determination pursuant to and in accordance
5 with Section 67.42, except that the Sunshine Commission shall not be considered a
6 “complainant of record” as provided in Section 67.42(a)(i).

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

8
9
10 **SECTION 67.3644. SUNSHINE ORDINANCE SUPERSEDES OTHER LOCAL LAWS.**

11 The provisions of this Sunshine Ordinance supersede other local laws, including by not
12 limited to the Charter. Whenever a conflict in local law is identified, the requirement which
13 would result in greater or more expedited public access to public information and meetings
14 shall apply. (Added by Proposition G, 11/2/99)

15
16 **SECTION 67.3745. SEVERABILITY.**

17 The provisions of this chapter are declared to be separate and severable. The invalidity
18 of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the
19 invalidity of the application thereof to any person or circumstances, shall not affect the validity
20 of the remainder of this chapter, or the validity of its application to other persons or
21 circumstances. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

22
23
24
25 ²³ Provides a longer time period within which respondents must comply with Orders of
Determination before a complainant can go directly to the Ethics Commission.

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

3 At and during a public meeting of any policy body governed by the San Francisco
4 Sunshine Ordinance, the ringing and use of cell phones, pagers and similar sound-producing
5 electronic devices shall be prohibited. The presiding officer of any public meeting which is
6 disrupted may order the ~~removel~~removal from the meeting room of any person(s) responsible
7 for the ringing or use of a cell phone, pager, or other similar sound-producing electronic
8 devices. The presiding officer may allow an expelled person to return to the public meeting
9 following an agreement by the expelled person to comply with the provisions of this Section. A
10 warning of the provisions of this Section shall be printed on all meeting agendas, and shall be
11 explained at the beginning of each public meeting by the presiding officer. (Added by Ord.
12 286-00, File No. 001155. App. 12/22/2000)

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Below is a summary of the key changes proposed as of March 3, 2010, for the San Francisco Sunshine Ordinance. The proposed amendments were drafted by the Task Force's Compliance and Amendments Committee in open session, with citizens' input.

In the text of the proposed amendments (which are available on the web at <http://sfgov.org/sunshine>), single underlines indicate language proposed as of June, 2008, for addition to the current Ordinance; single strikethroughs indicate language proposed as of June, 2008, for deletion from the current Ordinance; double underlines indicate language proposed since June, 2008, for addition to the current Ordinance; double strikethroughs indicate language proposed since June, 2008, for deletion from the current Ordinance.

In a number of cases, language in the text of the proposed amendments will appear twice, underlined in one part of the package and stricken through in another; this indicates the affected passage is intended for relocation within the Ordinance, rather than for addition or deletion.

* * * * *

ARTICLE I: IN GENERAL

1. Secs. 67.1(e) and 67.34: Name of Sunshine Ordinance Task Force would be changed to Sunshine Commission. Name change would not by itself change the body's mission, responsibilities, powers, or the method of appointing its members. The purpose of the proposed name change is to fix more firmly in the minds of citizens and City personnel the fact that this is a permanent, not an ad hoc, body.

ARTICLE II: PUBLIC ACCESS TO MEETINGS

2. Sec. 67.3(b): Revised, added and deleted language expands on and clarifies what is and is not a "public meeting" for City policy bodies. Sec. 67.3(b)(4): To the list of gatherings that are *not* public meetings, the following are added: (D) Attendance of a majority of members of a policy body at a meeting of a standing committee of the policy body, provided that the members of the policy body who are not members of the committee attend only as observers or as members of the public; and (E) Attendance of a majority of members of a policy body at a meeting of another policy body to observe or publicly comment on a matter specifically noticed before that policy body. Deleted from the list of gatherings that are *not* public meetings is "(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."

3. Sec. 67.3(c): Revised, added and deleted language expands on and clarifies what is and is not a "policy body". Added is (4) Any policy body subset (such as a committee) composed of members of the policy body.

4. Sec. 67.3(d): Revised, added and deleted language expands on and clarifies what is and is not a "passive meeting body". Added are (1) Advisory committees created by someone operating

with a department head's authority (committees created by department heads, the Mayor or policy bodies are already included).

5. Secs. 67.3(d)(5) and 67.3(e): Centralize and clarify provisions regarding posting of meeting notices and agendas for policy and passive-meeting bodies. Includes a new requirement for a centralized location on the City's website.

6. Sec. 67.4: Revised, added and deleted language increases passive meeting bodies' open-meeting requirements, including individual notifications, notice and agenda posting, and site accommodativeness.

7. Sec. 67.6(e): Special-meeting notice requirements are revised to provide consistency for accepted methods of notice delivery, and to allow shorter advance time because of increased use of electronic/instantaneous notice.

8. Sec. 67.6(g): Provision is added stipulating that an initial meeting of a policy body shall be considered a regular meeting, with 10-day advance notice required.

9. Sec. 67.7: Added and deleted portions clarify requirements for posting of and wording in agendas. Sec. 67.7(f): Added language mandates providing agendas and related materials in alternative formats to accommodate persons with disabilities. New Sec. 67.7(i) mandates that agendas include notice of citizens' right to submit statements or comments on specific agenda items, and stipulates that such statements or comments are public records.

10. Sec. 67.9: Added and revised language expands requirements for distributing and posting agenda packets. Sec. 67.9(a) adds requirement that agenda packets be available for public inspection at least 48 hours before a meeting and, where practicable, posted on the web. Sec. 67.9(b) adds a requirement that documents subject to adoption, approval or award by a policy body be available for public inspection at least 48 hours before the meeting at which the action is scheduled.

11. Sec. 67.10(b): Added language regarding matters authorized for closed hearings stipulates the right of City employees to have items to which they are parties in interest heard in public.

12. New Sec. 67.12(f) would require policy bodies to track and routinely review records of closed sessions to determine when those materials may be released to the public, once justification for keeping the matter closed no longer exists.

13. Sec. 67.13: Added language expands and increases requirements for accommodating the ability of persons with disabilities and those needing translation to attend and participate in public meetings; mandate would extend to all policy bodies, not just those enumerated in the City Charter.

14. New Sec. 67.13(f) would require that by 2012, all policy bodies enumerated in the City Charter broadcast all meetings in City Hall on the San Francisco Government TV (SFGOV-TV)

channel or its successor, or on the City's website via real-time audio and/or video streaming, and would encourage all other policy bodies to do same as feasible.

15. Sec. 67.14 would require that in light of new technology, meeting recordings be kept indefinitely; would clarify how much the City may charge for making copies; and would require all policy bodies to digitally record meetings and post the recordings on their websites within three days, starting no later than six months after this package of revisions receives voter approval.

16. Sec. 67.15(a) Consolidates section and clarifies that the Board of Supervisors and its committees must allow members of the public to address public bodies on any items within their subject matter jurisdiction. This would not affect Sec. 67.15(b), which stipulates that Board agendas need not provide an opportunity for public comment on items already considered by Board committees when the committees have heard public comment on those items.

17. Sec. 67.15(c): Revised and added language sets a minimum three-minute time limit per speaker, per agenda item at public meetings; clarifies circumstances permitting public body chairs to make other arrangements such as reducing the time limit to two minutes per speaker, and establishing time limits for pro and con sides of an issue; and provides for use of audio-visual equipment by members of the public addressing policy bodies.

18. New Sec. 67.15(c)(3) sets forth conditions and for meeting chairpersons to allow designated speakers, establishes procedures therefor, and establishes request-filing requirements for persons wishing to be designated speakers.

19. Sec. 67.16: Added language increases the information that must be provided in meeting minutes, and establishes requirements for posting of draft minutes on policy bodies' websites and of any real-time captioning provided at meetings.

20. New Sec. 67.18 establishes position of Supervisor of Public Forums to decide whether specific bodies are in the "policy" or "passive meeting" category, and to determine, upon request, whether bodies of either type have complied with the open-meeting provisions in the Sunshine Ordinance and the Ralph M. Brown Act. City Attorney would be permitted to combine the Supervisor of Public Forums and Supervisor of Public Records positions.

ARTICLE III: PUBLIC INFORMATION AND PUBLIC RECORDS

21. Sec. 67.20: Added, deleted and revised language clarifies City agencies' responsibilities in handling public records requests. Sec. 67.20(a) expands to all departments a requirement to appoint a Custodian of Public Records, who shall develop procedures and printed forms to expedite the request and response process. Sec. 67.20(c) clarifies response timelines. Sec. 67.20(d) is revised to clarify existing requirements, and is expanded to require City personnel to identify locations where electronic records are maintained. Sec. 67.20(f) adds a requirement that when asked to determine whether or not a record or part of a record is disclosable, the Supervisor of Public Records conduct an independent review of the case at hand and take Sunshine Commission rulings into account. This subsection also clarifies and expands entities to which the

Supervisor of Records may refer orders on petitions and requires that the Sunshine Commission be kept informed of all correspondence regarding petitions.

22. Sec. 67.24(b): Added language reinforces that the identity and contact information of persons who send communications to City entities are assumed to be public information unless they specifically request or the law requires that the information be withheld.

23. Sec. 67.25(a): Added language clarifies existing legal requirements regarding drafts and intra-agency memoranda under the Ordinance and expanded disclosure requirement for drafts not normally kept, consistent with existing California Public Records Act case law.

24. Sec. 67.25(c)(2): Added language expands disclosable personnel information to include the professional biography, curriculum vitae and job application of all City employees as well as that of all applicants, whether successful or not, for a position as a department head, or member of a City commission, task force or other policy body, with the home address, telephone number, Social Security number, age and marital status redacted.

25. Sec. 67.25(c)(5): Revised language regarding information on allegations of City employee misconduct brings the Ordinance into conformance with the California Public Records Act. Added language stipulates that reports conducted or requested by public agencies on allegations of City employee misconduct are public records subject to release at the conclusion of an investigation, even if constructed by an attorney.

26. Secs. 67.25(e)(1) and (2): New provisions require that all City requests for bids, proposals, quotes, information and qualifications of potential contractors be posted on the City's website, be kept in a central repository and be available for public inspection; and encourage the City to post on its website most responses to such requests.

27. Sec. 67.25(e)(3): Sets requirements for disclosing information when contracts are awarded are increased. Dollar amount of any contract is added to information that must be included, and there is a new mandate that the successful request for bid/proposal and the contract be posted on the City's website within five days after awarding of a contract.

28. Sec. 67.25(e)(7): Revised and added language changes guidelines for City departments' listing of sole-source contracts awarded during a fiscal year. Reports would be due every July 15, and departments would be required to post their lists to the City's website, keep the lists in a central repository, and make them available for public inspection and copying.

29. Sec. 67.26: Added language establishes requirement that all withholdings of documents or information be based on an express provision of the Ordinance or on an express exemption in the California Public Records Act the use of which is not barred by the Ordinance.

30. Sec. 67.28(e): New provision requires written justifications for withholding information to include a description of the information's nature and volume, and the specific justification applicable to each piece of withheld information.

31. Sec. 67.30(b): New provision would require transfer of paper records to electronic format upon request, when technologically feasible (Art. III, Sec. 67.30(b)).

32. Sec. 67.29-3: Provision regarding information on agreements between the City and advertising space providers would be deleted. Members of the Sunshine Ordinance Task Force have consensed that the provision is unnecessary.

33. Sec. 67.32: Requirement for keeping appointment calendars open to public inspection would be expanded to include members of the Board of Supervisors and all City agency/department heads. Secs. 67.32 (b) and (c) specify the types of information regarding officials' meetings with groups and individuals that must be disclosed and that are exempt from disclosure.

ARTICLE IV: POLICY IMPLEMENTATION

34. Sec. 67.34(c): Added language expands the communications relationship that the Sunshine Ordinance Task Force/Commission has with City policy-makers and employees, and with the public. Besides advising the Board of Supervisors on appropriate ways to implement the Ordinance, the Task Force/Commission would now advise the Mayor and City department heads as well. The section would also require the Task Force/Commission to solicit the advice of City personnel and the public on ways to improve the Ordinance. The Task Force has already been doing this; the new language is intended to ensure that the Task Force/Commission would continue the practice. The section would also make discretionary, rather than mandatory, the Task Force/Commission's referral of sunshine-law violations to entities with enforcement and penalization power, and would specifically identify those entities: the City Ethics Commission, the District Attorney and the California Attorney General.

35. Sec. 67.35: Added language clarifies that a mandate for the Board of Supervisors to provide full-time administrative assistance to the Task Force/Commission is a *minimum* requirement; and that the Task Force/Commission's administrative assistant is to have no duties other than his/her work for the Task Force/Commission.

38. Sec. 67.37: Added language would require that all materials and training plans for the Sunshine Ordinance portion of the Sunshine and Ethics Training conducted by the City Attorney's Office receive the Sunshine Commission's approval.

39. Sec. 67.39(b): New provision would empower the Sunshine Commission to issue subpoenas and take under-oath testimony on its own, to the extent allowed by state law. The Task Force must currently obtain Board of Supervisors authorization to issue subpoenas and is not empowered to put testifiers at hearings under oath.

40. Sec. 67.39(c): Added language clarifies responsibilities of respondent agencies at Sunshine Commission hearings on complaints by members of the public. It specifies that respondent agencies shall send representatives knowledgeable in the matter at hand and in the legal bases for their response. In addition, it specifies that respondent agencies must send representatives in cases alleging open meeting- or public records-related violations. The current Ordinance does not spell out a respondent attendance requirement in open meeting-related cases.

41. Sec. 67.40: Added and revised language would increase the Sunshine Commission's ability to effect compliance with the Ordinance and would clarify the list of entities that the Commission could approach for assistance in effecting compliance with the Ordinance.

- Sec. 67.40(a): When a respondent City agency, policy body, official or employee failed to comply in timely fashion with an Order of Determination calling for remedy of an open meeting or public record violation the Sunshine Commission would be authorized to refer the matter to the City Ethics Commission, the Board of Supervisors, the District Attorney and/or the State Attorney General, who would be empowered to take whatever measures they deemed necessary to ensure compliance with the Order of Determination.
- Secs. 67.40(b) and (c): When issuing an Order of Determination, the Commission would be empowered to require the governing entity to which the violator reports to schedule at its next regular meeting a discussion of and response to the Order of Determination, and to require that the governing entity post the Order of Determination on its own or the violating agency/department's website.
- Sec. 67.40(d): Upon finding a serious, willful violation of the Ordinance, the Sunshine Commission could, by a two-thirds-majority vote, hire an outside attorney to pursue the matter in court to the extent permitted by the City Charter, with a spending ceiling of \$50,000 unless a greater amount is specified by the Board of Supervisors, and any attorney fees collected as a result of the lawsuit to go back into the Commission's litigation fund (Art. IV, Sec. 67.40(c)).
- Sec. 67.40(f): New provision stipulates that an Order of Determination would be evidence of a violation of the Ordinance or other applicable sunshine law in any other administrative or judicial proceeding.

42. Sec. 67.41: Revised and added language clarifies that when the Sunshine Commission finds willful failure to comply with the Ordinance, constituting official misconduct by a City official or employee, the Commission may refer the matter not only to the City Ethics Commission but also to the Board of Supervisors, the District Attorney and/or the State Attorney General.

43. Sec. 67.42: New provisions establish procedures for City Ethics Commission investigations of sunshine violations referred by the Sunshine Commission, including setting a penalty range of \$500 to \$5,000 per violation and empowering the Ethics Commission to impose monetary and other penalties it deems appropriate. Provisions in this section also establish the Sunshine Commission chair or vice-chair and the complainants in referred matters as co-complainants before the Ethics Commission, and authorizes the Sunshine Commission to recommend fine amounts, with any fines collected by the Ethics Commission in cases referred by the Sunshine Commission to go into the Sunshine Commission's litigation fund. The provisions in this section also stipulate the Sunshine Commission Orders of Determination and findings of willful violation constituting official misconduct shall be evidence of a violation of the Ordinance or other applicable sunshine law in any Ethics Commission investigation or other proceeding.

44. Secs. 67.43(c) and (d): New provision would create a right to judicial review of alleged public meeting violations but only after the policy body has had the opportunity to cure or correct its challenged action. Provision also would establish method by which members of the

public may seek enforcement of enhanced public meeting requirements in the Sunshine Ordinance through procedures consistent with the procedural requirements of the Brown Act.

45. Sec. 67.43(g): Revised language lengthens to 60 days from the current 40 days the amount of time that a City entity, official or employee would have to comply with a Sunshine Commission Order of Determination before a complainant could take his/her complaint directly to the City Ethics Commission. In such an instance, the Sunshine Commission would not be considered a complainant before the Ethics Commission.

46. Sec. 67.44: Added language expands the local legal precedence of the Sunshine Ordinance in sunshine-related matters. The current Ordinance stipulates that the provisions of the Ordinance supersede other local laws, and that whenever a conflict in local law is identified, the requirement resulting in greater or more expedited public access to public information and meetings shall apply. The added language would specify that the City Charter is included in the local laws that the Ordinance would supersede in the event of such a conflict.

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