

Date: June 10, 2008

Item No. 1

File No. \_\_\_\_\_

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Article II and III of the Sunshine Ordinance**
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Completed by: Frank Darby

Date: June 6, 2008

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

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

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**PROPOSED ORDINANCE AMENDMENTS**

1  
2  
3 Amending the current Sunshine Ordinance set forth in Chapter 67 of the San Francisco  
4 Administrative Code by amending Sections 67.1; 67.2; 67.3; 67.4; 67.6; 67.7; 67.7-1; 67.9;  
5 67.13; 67.14; 67.15; 67.16; 67.21; 67.22; 67.23; 67.24; 67.25; 67.28; 67.29; 67.29-1; 67.29-3;  
6 67.29-5; 67.29-6; 67.29-7; 67.30; 67.31; 67.32; 67.33; 67.34, and 67.36 to require advisory  
7 bodies appointed by the Mayor to create policy to be considered "policy bodies;" to require  
8 passive meeting bodies to give formal notice of their meetings; to require documents prepared  
9 by the City for consideration by a policy body to be available to the public 48 hours before the  
10 meeting; to require all policy bodies to provide translators at their meetings upon request; to  
11 require all policy bodies to record their meetings and keep minutes; to permit a policy body to  
12 decline to take public comment on an item where the item was heard in committee and the  
13 public had an opportunity to speak before the committee; to give members of the public the  
14 right to speak for a minimum of three minutes on an item unless a large number of speakers  
15 wish to speak on the item or it is during general public comment before the Board of  
16 Supervisors; to require the City Administrator to monitor the City records of public officials who  
17 leave office; to require departments to maintain records consistent with City records retention  
18 policies; to make additional technical changes; and to add section 67.37 to allow the Board of  
19 Supervisors upon a two-thirds vote to amend the Sunshine Ordinance to conform to state law  
20 or allow further the public's access to government. to require passive meeting bodies to give  
21 formal formally notice of their meetings; to require policy bodies to provide more opportunities  
22 for the public to review public documents being considered at public meetings; to require more  
23 opportunities for public participation at policy body meetings; to require all policy bodies to  
24 record their meetings and keep these recordings indefinitely; to require the City Administrator  
25 City Attorney's Office to monitor the public documents of public officials who leave office; to

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1 ~~require other public and private entities that contract with the City to agree to follow the Open~~  
2 ~~Government Ordinance as a condition precedent to receiving funds from the City; to change~~  
3 ~~the name of the Sunshine Ordinance Task Force to the Open Government Task Force~~  
4 ~~Commission for Open Government; to provide the Commission with subpoena powers, and to~~  
5 ~~provide for the use of outside counsel to prosecute violations of the Ordinance and to make~~  
6 ~~other technical corrections to the Ordinance.~~

7  
8           Note:           Additions are single-underline;  
                                  deletions are ~~strikethrough~~.

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

11           Section 1. The San Francisco Administrative Code is hereby amended by amending  
12 Section 67.1; 67.2; 67.3; 67.4; 67.6; 67.7; 67.7-1; 67.9; 67.13; 67.14; 67.15; 67.16; 67.21;  
13 67.22; 67.23; 67.24; 67.25; 67.28; 67.29; 67.29-1; 67.29-3; 67.29-5; 67.29-6; 67.29-7; 67.30;  
14 67.31; 67.32; 67.33; 67.34, and 67.36 to read as follows:  
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1  
2 **ARTICLE I**  
3 **IN GENERAL**  
4

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5 Sec. 67.1. Findings and Purpose.

6 Sec. 67.2. Citation.

7 **SECTION 67.1 FINDINGS AND PURPOSE.**

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

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

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

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

21 (d) The right of the people to know what their government and those acting on  
22 behalf of their government are doing is fundamental to democracy, and with very few  
23 exceptions, that right supersedes any other policy interest government officials may use to  
24 prevent public access to information. Only in rare and unusual circumstances does the public  
25 benefit from allowing the business of government to be conducted in secret, and those

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1 circumstances should be carefully and narrowly defined to prevent public officials from  
2 abusing their authority.

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

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

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

14  
15 **SECTION 67.2. CITATION.**

16 This ~~Chapter~~ chapter may be cited as the San Francisco Sunshine Ordinance. (Added by Ord.  
17 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

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1  
2 **ARTICLE II**  
3 **PUBLIC ACCESS TO MEETINGS**  
4

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- 5 Sec. 67.3. Definitions.  
6 Sec. 67.4. Passive Meetings.  
7 Sec. 67.5. Meetings To Be Open and Public; Application of Brown Act.  
8 Sec. 67.6. Conduct of Business; Time and Place For Meetings.  
9 Sec. 67.7. Agenda Requirements; Regular Meetings.  
10 Sec. 67.7-1. Public Notice Requirements.  
11 Sec. 67.8. Agenda Disclosures: Closed Sessions.  
12 Sec. 67.8-1. Additional Requirements for Closed Sessions  
13 Sec. 67.9. Agendas and Related Materials: Public Records.  
14 Sec. 67.10. Closed Sessions: Permitted Topics.  
15 Sec. 67.11. Statement of Reasons For Closed Sessions.  
16 Sec. 67.12. Disclosure of Closed Session Discussions and Actions.  
17 Sec. 67.13. Barriers to Attendance Prohibited.  
18 Sec. 67.14. Tape Recording, Filming and Still Photography.  
19 Sec. 67.15. Public Testimony.  
20 Sec. 67.16. Minutes.  
21 Sec. 67.17. Public Comment By Members of Policy Bodies.  
22 Sec. 67.18 Supervisor of Public Forums

23 **SECTION 67.3. DEFINITIONS.**

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

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

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

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

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

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

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

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

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

25

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

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

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

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

19 (c) "Passive meeting body" shall mean:

20 (1) Advisory committees, created by the initiative of a member of a policy body, the  
21 Mayor, the City Administrator, an elective officer, or a department head other than the Mayor,  
22 to advise on fiscal, economic or policy issues;

23 (2) Any group that meets to discuss with or advise the Mayor or any dDepartment  
24 hHead on fiscal, economic, or policy issues; consists of includes City employees assigned by a  
25 policy body, the Mayor, or department head to meet with residents or community groups to



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1 obtain information that would result in a report or recommendation from the group back to the  
2 policy body, the Mayor or department for action by the policy body, Mayor or department;

3 ~~(2)~~ (3) Social, recreational or ceremonial occasions sponsored or organized by or for a  
4 policy body to which a majority of the body has been invited.

5 ~~(3)~~(4) "Passive meeting body" shall not include a committee that consists solely of City  
6 employees of the City and County of San Francisco created by the initiative of a member of a  
7 policy body, the Mayor, or a department head; to study internal departmental affairs which is  
8 not expected to modify or change City policy;

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

14 (d) "Policy Body" shall mean:

15 (1) The Board of Supervisors;

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

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

19 ~~(4)~~(5) Any advisory board, commission, committee or other body, created by the  
20 initiative ~~Mayor or~~ of a policy body;

21 ~~(5)~~(4) Any board, commission, committee or other body, standing committee, ad hoc  
22 committee, and Task Force of a policy body composed of members of the Policy  
23 Body, irrespective of its composition;

24 ~~(6)~~ Any body appointed by the Mayor for the purpose of creating or implementing  
25 policy.

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1 ~~(7)(6)~~ "Policy Body" shall not include a committee which consists solely of employees  
2 of the City and County of San Francisco, unless such committee was established by charter  
3 or by ordinance or resolution of the Board of Supervisors.

4 ~~(8)(7)(6)~~ Any advisory board, commission, committee, or council created by a  
5 federal, state, or local grant whose members are appointed by City officials, employees or  
6 agents. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 129-98, App. 4/17/98;  
7 Proposition G, 11/2/99)

8  
9 **SECTION 67.4. PASSIVE MEETINGS BODIES: CONDUCT OF BUSINESS.**

10 (a) ~~All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry~~  
11 ~~and to the extent possible consistent with the facilities in which they occur.~~

12 (a) — Conduct of Passive Meetings:

13 (1)(a) All gatherings of passive meeting bodies shall be accessible open to individuals  
14 upon inquiry and to the extent that the meeting sites locations have sufficient capacity,  
15 facilities, furniture and equipment. Such gatherings need not be conducted in any particular  
16 space for the accommodation of members of the public, although members of the public shall  
17 be permitted to observe on a space available basis consistent with legal and practical  
18 requirements and restrictions on occupancy.

19 ~~(1)(2)(b)~~ Such gatherings must ~~need not~~ be formally noticed with a contact  
20 person's, name, and contact information, at least 72 hours prior to the scheduled meeting  
21 ~~except on the City's website whenever possible, although~~ and the time, place and nature of the  
22 gathering shall be posted at the main library and on the City's website and be disclosed by  
23 mail, e-mail, or fax upon inquiry by a member of the public, ~~and any.~~ If an agenda actually is  
24 prepared in advance for the gathering, it shall be accessible to such inquirers as a public  
25 record provided upon request, and as practicable posted with the notice.

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

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

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

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

18           ~~(5)(6) Gatherings defined in section 67.3(c) subdivision (5) may hold closed sessions~~  
19 ~~under circumstances allowed by this Article.~~

20           <sup>1</sup>~~(b) To the extent not inconsistent with state or federal law, a policy body shall~~  
21 ~~include in any contract with an entity that owns, operates or manages any property in which~~  
22 ~~the City has or will have an ownership interest, including a mortgage, and on which the entity~~  
23 ~~performs a government function related to the furtherance of health, safety or welfare, a~~

24 \_\_\_\_\_  
25 <sup>1</sup> Move this entire section to 67.24

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1 ~~requirement that any meeting of the governing board of the entity to address any matter~~  
2 ~~relating to the property or its government related activities on the property, or performance~~  
3 ~~under the contract or grant, be conducted as provided in subdivision (a) of this section.~~  
4 ~~Records made available to the governing board relating to such matters shall be likewise~~  
5 ~~available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a~~  
6 ~~higher actual cost as demonstrated in writing to such governing board.~~

7 ~~(b) To the extent not inconsistent with state or federal law, the City and any of its~~  
8 ~~commissions, departments or officers a policy body shall include in any contract or a grant~~  
9 ~~with an entity that owns, operates or manages any property in which the City has or will have~~  
10 ~~an ownership interest, including a mortgage, and on which the entity performs for the~~  
11 ~~performance of a government function related to the furtherance of health, safety or welfare, a~~  
12 ~~requirement that any meeting of the governing body, if any, board of the entity to address any~~  
13 ~~matter relating to the property or its government related activities on the property, or~~  
14 ~~performance under the contract or grant, be conducted as provided in subdivision (a) of this~~  
15 ~~section. Records made available to the governing bodyboard relating to such matters shall be~~  
16 ~~likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per~~  
17 ~~page, or at a higher actual cost as demonstrated in writing to such governing bodyboard.~~

18 (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G,  
19 11/2/99)

20  
21 **SECTION 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT.**

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

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

2  
3 **SECTION 67.6. POLICY BODY: CONDUCT OF BUSINESS; TIME AND PLACE FOR**  
4 **MEETINGS.**

5 (a) Each policy body, except for advisory bodies specified in Section 67.3(d)(4), (5)  
6 and 67.3(d)(6) and 67.3(d)(8), shall establish by resolution or motion the time and place for  
7 holding regular meetings.

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

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

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

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1           ~~(e)(d)~~ Meetings of advisory ~~passive meeting bodies~~ as specified in Section ~~67.3(d)(4),~~  
2           ~~(5) and 67.3(d)(6)~~ ~~67.6(d)(4)~~ of this article shall be preceded by notice delivered personally or  
3           by mail, e-mail, or facsimile as reasonably requested at least 72 hours before the time of such  
4           meeting to each person who has requested, in writing, notice of such meeting, as governed by  
5           ~~Section 67.7 of this Ordinance delivered personally or by mail, e-mail, or facsimile as~~  
6           ~~reasonably requested at least 72 hours before the time of such meeting to each person who~~  
7           ~~has requested, in writing, notice of such meeting.~~ If ~~the~~ an the advisory body elects to hold  
8           regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory  
9           body for the conduct of its business, for the time and place for holding such regular meetings.  
10          ~~In such case, no notice of regular meetings, other than the posting of an agenda pursuant to~~  
11          ~~Section 67.7 of this article in the place used by the policy body which it advises, is required.~~

12           ~~(f)(e)~~ Special meetings of any policy body, including advisory bodies identified in  
13          subsection 67.3(d)(4), (5) and 67.3(d)(6) and 67.3(d)(8) that choose to establish regular  
14          meetings ~~times~~, may be called at any time by the presiding officer thereof or by a majority of  
15          the members thereof, by delivering personally ~~or by mail~~ written notice to each member of  
16          such policy body and the local media who have requested written notice of special meetings  
17          in writing. Such notice ~~of a special meeting shall be delivered~~ personally or by mail, e-mail, or  
18          facsimile as reasonably requested so that it is delivered as described in (e) at least 72 hours  
19          before the time of such meeting as specified in the notice. The notice shall specify the time  
20          and place of the special meeting and the business to be transacted. No other business shall  
21          be considered at such meetings. Such written notice may be dispensed with as to any  
22          member who at or prior to the time the meeting convenes files with the presiding officer or  
23          secretary of the body or commission a written waiver of notice. ~~Such waiver may be given by~~  
24          ~~telegram.~~ Such written notice may also be dispensed with as to any member who is actually  
25          present at the meeting at the time it convenes. Each special meeting shall be held at the

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1 regular meeting place of the policy body except that the policy body may designate an  
2 alternate meeting place provided that such alternate location is specified in the notice of the  
3 special meeting; further provided that the notice of the special meeting of the policy body shall  
4 be given at least ~~45~~ 10 calendar days prior to said special meeting being held at an alternate  
5 location. This provision shall not apply where the ~~alternative~~ alternate meeting location is  
6 located ~~within~~ the same building as the regular meeting place.

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

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

17 (h)(g) Each policy body shall designate one or more posting locations for notices and  
18 agendas required by this ordinance. The Sunshine Commission for Open Government shall  
19 be so notified in writing and shall cause maintain a master list to be maintained of such  
20 designated posting locations by the policy bodies.

21 (h) ~~Notice of the~~ The initial meeting of a policy body shall be considered a regular  
22 meeting and notice of the time and location of the meeting shall be given at least 10 calendar  
23 days prior to said initial meeting being held, and delivered personally or by mail, e-mail, or  
24 facsimile as reasonably requested at least 72 hours before the time of such meeting as  
25

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1 ~~specified in the notice.~~ (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G,  
2 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 ~~W~~website at least 72 hours before a regular  
12 meeting, and a link to the agenda on a "central master calendar" available on the City's  
13 website where the date, time and location of all City policy body meetings shall be listed.

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

23 (c) The agenda shall specify the time and location of the regular meeting and shall  
24 be posted, at the main public library, and in the branch libraries and in a locations that is are  
25 freely accessible to members of the public. The requirement that a policy body post copies of



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1 its agendas at the branch libraries is satisfied if the branch library has a computer accessible  
2 to the public upon which members of the public may can access the City's website to search  
3 for agendas of meetings of City policy bodies. The agenda shall also be posted outside the  
4 meeting room as soon as practicable but no later than the start of the meeting.

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

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

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

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

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

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1 of the prior meeting specifying that a particular agenda item was continued to that meeting, will  
2 be taken up, discussed and decided upon at the next meeting.

3 (f) Each board and commission enumerated in the charter shall ensure that  
4 ~~agendas for regular and special meetings are made available to speech and hearing impaired~~  
5 ~~persons through telecommunications devices for the deaf, telecommunications relay services~~  
6 ~~or equivalent systems, and, upon request, to sight impaired persons through Braille or~~  
7 enlarged type and other material related to meetings are accessible to persons with  
8 disabilities. Upon request, materials shall be made available in alternative formats. Requests  
9 should be made to the secretary or clerk of the board or commission at least 48 hours prior to  
10 the meeting. Requests for material in alternative formats made less than 48 hours prior to the  
11 meeting shall be met when possible. All policy bodies and passive meeting bodies shall  
12 comply with the guidelines and recommendations of the Mayor's Office of Disabilities  
13 Accessible Public Event Checklist.

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

16  
17 **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

18 (Chapter 67 of the San Francisco Administrative Code)

19  
20 Government's duty is to serve the public, reaching its decisions in full view of the  
21 public. Commissions, boards, councils and other agencies of the City and County exist to  
22 conduct the people's business. This ordinance assures that deliberations are conducted  
23 before the people and that City operations are open to the people's review.  
24  
25

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1 FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE  
2 SUNSHINE ORDINANCE

3 OR TO REPORT A VIOLATION OF THE ORDINANCE,  
4 CONTACT THE SUNSHINE COMMISSION ~~SUNSHINE ORDINANCE TASK FORCE~~.

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

12 (i) Each agenda of a policy body shall state that members of the public may submit  
13 statements and/or comments regarding any item on those bodies' meeting agendas; those  
14 statements or comments shall become a public record, regardless of whether their authors  
15 are present when the item at issue is discussed. The policy body may review and consider  
16 those statements or comments if received before or during the discussion of the item.  
17 Statements or comments received within ten business days after the meeting shall be  
18 included in the public record with a notation as to when they were received. (Added by Ord.  
19 185-96, App. 5/8/96; amended by Proposition G, 11/2/99)

20  
21 **Section 67.7-1. PUBLIC NOTICE REQUIREMENTS.**

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

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

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

11           ~~(b)(d) When notice is given, as provided in these articles, by public policy or advisory~~  
12 ~~bodies other than those referred to listed in Section 67.7-1, members of the public may~~  
13 ~~submit statements and/or comments regarding any item on those bodies' meeting agendas;~~  
14 ~~those statements or comments shall become a public record, regardless of whether their~~  
15 ~~authors are present when the item at issue is discussed. The policy bodies may review and~~  
16 ~~consider those statements or comments if received statements or comments shall be subject~~  
17 ~~to review and consideration by those bodies if submitted before or during the hearing on the~~  
18 ~~item. Statements or comments received within ten business days after the hearing shall go~~  
19 ~~on the public record with a notation as to when they were it was received. (Added by Ord.~~  
20 ~~185-96, App. 5/8/96; amended by Proposition G, 11/2/99)~~

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

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

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

5            ~~(a)(b) In addition to the brief general description of items to be discussed or acted upon~~  
6 ~~in open and public session, the agenda posted pursuant to Government Code Section~~  
7 ~~54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any~~  
8 ~~call and notice delivered to the local media and posted pursuant to Government Code Section~~  
9 ~~54956 shall specify and disclose the nature of any closed sessions by providing all of the~~  
10 ~~following information:~~ With respect to every item of business to be discussed in closed session  
11 pursuant to Government Code section 54957:

12  
13            ~~(1) With respect to a closed session held pursuant to Government Code Section~~  
14 ~~54956.7:~~

15 ~~LICENSE/PERMIT DETERMINATION:~~

16  
17 ~~applicant(s)~~

18  
19 ~~The space shall be used to specify the number of persons whose applications are to be~~  
20 ~~reviewed.~~

21  
22            ~~(2) With respect to every item of business to be discussed in closed session pursuant~~  
23 ~~to Government Code Section 54956.8:~~

24  
25 ~~CONFERENCE WITH REAL PROPERTY NEGOTIATOR~~

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- 1 Property:
- 2 Person(s) negotiating:
- 3 Under negotiation:
- 4 Price: Terms of payment: Both:

5

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

12

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

15

16 ~~CONFERENCE WITH LEGAL COUNSEL~~

17 Existing litigation:

18 Unspecified to protect service of process

19 Unspecified to protect settlement posture

20 or:

21 ~~CONFERENCE WITH LEGAL COUNSEL~~

22 Anticipated litigation:

23 As defendant As plaintiff

24

25

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

13  
14           ~~(4) With respect to every item of business to be discussed in closed session pursuant~~  
15 ~~to Government Code Section 54957, either:~~

16  
17   ~~THREAT TO PUBLIC SERVICES OR FACILITIES~~

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

19   ~~or:~~

20   ~~PUBLIC EMPLOYEE APPOINTMENT/HIRING~~

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

22   ~~PUBLIC EMPLOYEE PERFORMANCE EVALUATION~~

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

24   ~~or:~~

25   ~~PUBLIC EMPLOYEE DISMISSAL/DISCIPLINE/RELEASE~~

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1 Number of employees affected:

2 of:

3

4 ~~(5)(b)(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 Where renegotiating a memorandum of understanding or negotiating a successor  
23 memorandum of understanding, the name of the memorandum of understanding:

24 In case of multiple items of business under the same category, lines may be added and  
25 the location of information may be reformatted to eliminate unnecessary duplication and



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

9  
10 ~~SECTION 67.8-1. ADDITIONAL REQUIREMENTS FOR CLOSED SESSIONS.~~

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

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

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1 developed into litigation and shall identify the court, case number, and date the case was filed  
2 (~~Added by Proposition G, 11/2/99~~)[Moved to 67.12 (e)]

3  
4 **SECTION 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.**

5 (a) Agendas of meetings, meeting packets, or documents created by a department,  
6 and or any other documents on file with the clerk or secretary of the policy body, when  
7 intended for distribution to all, or a majority of all, of the members of a policy body in  
8 connection with a matter anticipated for discussion or consideration at a public meeting shall  
9 be made available to the public for inspection and copying at the office of the policy body at  
10 least 48 hours before the hearing. To the extent possible, such documents shall also be made  
11 available through the policy body's Internet site. However, this disclosure need not include an  
12 material exempt from public disclosure under this ordinance. Unless demonstrably unfeasible  
13 these material materials shall be made available on the policy bodiesbody's web site, at least  
14 48 hours prior to the meeting. Public review copies of the agenda and all related documents  
15 that constitute the meeting packet shall be made and be available at the meeting to the public  
16 in sufficient quantities at the hearing commensurate with the anticipated number of people  
17 attending the hearing. The materials that are distributed at the hearing shall be of such a  
18 quality that a person with 20/20 vision would have no difficulty reading them.

19 (b) If any document subject to adoption, approval or award by a Policy Body is not  
20 available at least 48 hours before the meeting at which that document is scheduled to be  
21 adopted, approved or awarded and a member of the policy body requests that the matter be  
22 continued, the policy body must continue the item to a time not less than 48 hours after the  
23 document was made available. Nothing in this subsection shall prohibit the policy body from  
24

25  

---

<sup>1</sup> Move to § 67.13?

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1 ~~amending a document at a meeting. The materials that are distributed at the hearing shall be~~  
2 ~~of such a quality that a person with 20/20 vision would have no difficulty reading them. To the~~  
3 ~~extent possible, such documents shall also be made available through the policy body's~~  
4 ~~Internet site. However, this disclosure need not include any material exempt from public~~  
5 ~~disclosure under this ordinance.~~

6 (b) ~~Records which are subject to disclosure under subdivision (a) and which are~~  
7 ~~intended for distribution to a policy body prior to commencement of a public meeting shall be~~  
8 ~~made available for public inspection and copying upon request prior to commencement of~~  
9 ~~such meeting, whether or not actually distributed to or received by the body at the time of the~~  
10 ~~request.~~

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

14 (b)(d)(c) ~~Records which are~~Documents which are distributed prior to or during  
15 ~~subject to disclosure under subdivision (a) and which are distributed prior to or during their~~  
16 ~~discussion at a public meeting~~ to members of a policy body shall be made available for public  
17 inspection immediately or as soon thereafter as is practicable.

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

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

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

3 (a) With the Attorney General, district attorney, agency counsel, security consultant,  
4 sheriff, or chief of police, or their respective deputies, on matters posing a threat to the  
5 security of public buildings or a threat to the ~~public's~~public's right of access to public services  
6 or public facilities.

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

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

25

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

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

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

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

17 In the case of an item added to the agenda as a matter of urgent necessity, the  
18 statement shall be made prior to the determination of urgency and with the same disclosures  
19 and specifications as if the item had been included in the agenda pursuant to Section 67.8 of  
20 this article. Nothing in this section shall require or authorize a disclosure of information  
21 prohibited by state or federal law. (Added by Ord. 265-93, App. 8/18/93; amended by  
22 Proposition G, 11/2/99)  
23

24 **SECTION 67.12. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS.**  
25

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

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

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

23 (2) Litigation: Direction or approval given to the ~~body's~~body's legal counsel to  
24 prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise  
25 enter as a party, intervenor or amicus curiae in any form of litigation as the result of a

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1 consultation pursuant to Government Code Section 54956.9 shall be reported in open session  
2 as soon as given, or at the first meeting after an adverse party has been served in the matter  
3 if immediate disclosure of the City's City's intentions would be contrary to the public interest.  
4 The report shall identify the adverse party or parties, any co-parties with the City, any existing  
5 claim or order to be defended against or any factual circumstances or contractual dispute  
6 giving rise to the City's City's complaint, petition or other litigation initiative.

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

22 (4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the  
23 resignation of a public employee in closed session pursuant to Government Code Section  
24 54957 shall be reported immediately in a manner that names the employee, the action taken  
25 and position affected and, in the case of dismissal for a violation of law or of the policy of the



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1 City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any  
2 termination of employment at the will of the employer rather than of the employee, however  
3 characterized. The proposed terms of any separation agreement shall be immediately  
4 disclosed as soon as presented to the body, and its final terms shall be immediately disclosed  
5 upon approval by the body.

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

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

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

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

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1        (f) Review of Closed Session Justifications

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

3        (1) For each closed session, each public body shall maintain a record of the date and  
4 time of the closed session, the justification for the closed session and the subject matter  
5 discussed in closed session, and shall include all minutes, recordings or other records

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

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

17  
18        **SECTION 67.13. BARRIERS TO ATTENDANCE PROHIBITED.**

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

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

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

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

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

24 (e) All Policy Bodies ~~The Board of Supervisors~~ shall seek to provide translators at  
25 each of its regular meetings and all meetings of its committees for each language requested,

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

16 (f) — ~~Each policy body that meets in City Hall and televises its meetings on the San~~  
17 ~~Francisco Government Cable Channel may provide~~ Boards and Commissions enumerated in  
18 the charter shall, by 2010 policy bodies are encouraged to broadcast their all meetings held in  
19 City Hall on the San Francisco Government Cable TV Channel or its successor via real-time  
20 audio streaming and/ or real-time audio/video streaming on the Internet. All other policy  
21 bodies are encouraged to broadcast their meetings similarly as feasible, for participation by  
22 ~~members of the public via telephone "bridge lines" for public comment on each item in the~~  
23 ~~same manner as if the member of the public were in actual physical attendance at the~~  
24 ~~meeting. Each policy body subject to this provision may develop reasonable procedures for~~  
25 ~~its implementation.~~

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

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

5  
6 **SECTION 67.14. ~~TAPE-RECORDING, FILMING AND STILL PHOTOGRAPHY.~~**

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

13 (b) All policy bodies ~~Each board and commission enumerated in the charter shall~~  
14 ~~audio record each regular and special meeting, including closed sessions.~~ Each such audio  
15 recording, and any other audio or video recording of a meeting of any other policy body made  
16 at the direction of the policy body, shall be a public record subject to inspection pursuant to  
17 the California Public Records Act (Government Code Section 6250 et seq.). These recordings  
18 shall be kept indefinitely by the City, and shall not be erased or destroyed unless the  
19 recordings are being transferred into a different format for archival or accessibility  
20 requirements. ~~and shall not be erased or destroyed and shall be retained for at least ten~~  
21 ~~years, or permanently where technologically and economically feasible. The City may retain~~  
22 ~~these recordings digitally. The audio and/or video record shall be kept indefinitely as current~~  
23 ~~technology allows. Inspection of any such recording shall be provided without charge on an~~  
24 ~~appropriate play back device made available by the City; copies of any such recordings.~~  
25 ~~Audio records of audio taped meetings shall be provided upon request and payment for the~~

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1 ~~actual cost of the recording medium on which the copy is recorded used to make the~~  
2 ~~copy.~~ Requests shall be made through the department, board, commission, task force, or  
3 committee whose meeting is recorded. Requests shall be completed in the order of receipt  
4 and no additional charges shall be assessed for expedited service. ~~The City~~  
5 ~~Administrator shall assist policy bodies in carrying out their duties under this subsection.~~

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

13  
14 (e)(d) All policy bodies shall be encouraged required to digitally record their meetings  
15 by 20132010. Any such digital recordings that are made shall be posted on the policy bodies'  
16 website within three days. The City Administrator shall assist policy bodies in carrying out their  
17 duties under this subsection.

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

19  
20 **SECTION 67.15. PUBLIC TESTIMONY.**

21 (a) Every agenda for regular and special meetings shall provide an opportunity for  
22 members of the public to directly address a policy body on any items of interest to the public  
23 that isare within the policy body's subject matter jurisdiction, provided that no action shall be  
24 taken on any item not appearing on the agenda unless the action is otherwise authorized by  
25 Section 67.7(e) of this article. ~~However, in the case of a meeting of the Board of Supervisors,~~

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1 ~~in the case of a meeting of the Board of Supervisors, the agenda need not provide an~~  
2 ~~opportunity for members of the public to address the policy body Board on any item that has~~  
3 ~~already been considered by a committee, composed exclusively of members of the policy~~  
4 ~~body Board, at a public meeting wherein all interested members of the public were afforded~~  
5 ~~the opportunity to address the committee on the item, before or during the committee's~~  
6 ~~consideration of the item, unless the item has been substantially changed since the committee~~  
7 ~~heard the item, as determined by the policy body Board.~~

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

19 (c) Time and Order of Public Speakers

20 A policy body shall adopt reasonable regulations to ensure that the intent of  
21 subdivisions (a) and (b) are carried out, including, but not limited to the following;

22 (1) ~~Regulations limiting the total amount of time allocated for public testimony on~~  
23 ~~particular issues and for each individual speaker.~~ Each policy body shall adopt a rule  
24 providing that each person wishing to speak on an item before the body at a regular or special  
25

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1 meeting shall be permitted to be heard once for a minimum of three minutes on that item per  
2 agenda item.

3 (2) provided, however, if the chair Chair of the a meeting finds that a large number of  
4 speakers wish to speak on a particular item, the chair may reduce each individual speaker's  
5 time, to under three five minutes., but may not limit the public speaking time to less than two  
6 minutes per speaker., unless a Designated Speaker is authorized. The Chair shall announce  
7 any modification of the five three-minute minimum before public testimony on that item  
8 commences. Notwithstanding the foregoing, during general public comment at the Board of  
9 Supervisors, the Board or its President may limit the total amount of time allocated for public  
10 testimony and for each individual speaker. The chair has discretion to provide extra time for  
11 those who need accommodation for an interpreter or because they have a disability. Time  
12 limits shall be applied uniformly consistently to members of the public wishing to testify. and  
13 any modification of the five minute minimum shall be announced before public testimony on  
14 the item commences.

15 (3). The Chair May Allow Authorizing a Designated Speaker(s)

16 (A). In order to level the playing field for disputed and controversial issues, If  
17 allowed by the chair members of the public may, for any item who are proponents or  
18 opponents of an item, which is agendized for adoption or discussion by any Policy  
19 Body, may authorize a Designated Speaker or Speakers, who will present the  
20 arguments regarding an issue for adoption for up to 15 minutes, or for a time which is  
21 equal to the amount of time allowed to the Ddepartment or presenting party, excluding  
22 the time required to answer questions posed by the body. The Designated Speaker(s)  
23 and the Ddepartment or other presenting party for an item to be adopted shall be  
24 allowed to speak in summary for five minutes directly prior to the vote by a Ppolicy  
25 Bbody.



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1           ~~(B). It shall be the responsibility of the clerk or secretary of a board or~~  
2 ~~commission to assure that the designated speaker on any issue speaks by consensus~~  
3 ~~of a group.~~

4           (BG). It shall be the responsibility of the designated speaker to file, with the  
5 Clerk or Secretary, a Request to Authorize a Designated Speaker prior to the  
6 commencement of an item and to guarantee that at least six members of the public,  
7 present and prepared to speak, have designated a portion of their allotted speaking  
8 time to the requester.

9           ~~(CD). The Chair shall, by show of hands, or similar means, determine that a~~  
10 ~~designated speaker has the consent of six members of the public who are present and~~  
11 ~~prepared, 60% of those who wish to speak on an issue, and shall announce the~~  
12 ~~designated speaker(s).~~

13           ~~(E). The Chair may, following the announcement of a designated speaker,~~  
14 ~~determine that, due to the large number of speakers on the issue, limit the amount of~~  
15 ~~public time to less than three minutes per speaker.~~

16           (4) Rules for the Order of Speakers. (e) (21) — A chair shall accept public testimony in  
17 a fair and evenhanded way, without manipulation in the order of speakers, absent good  
18 cause. — A policy body and each advisory committee Each policy body shall adopt regulations  
19 for the order of speaking, which shall include but is not be limited to the following:

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

23           (B) Members of the public who have not submitted speakers cards may form  
24 a line to speak and shall be called upon in the order of appearance at the front of the  
25

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1 line, except that the chair may allow disabled or elderly-frail members of the public to  
2 speak out of turn.

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

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

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

14 (f) Members of the public shall have access to any audio and videoall audio-visual  
15 equipment provided byused by a department or Policy Body and any for presentations made  
16 to that policy body consistent with time limits provided in subsection (c). Prior notification in  
17 the agenda or public notice that a presentation will be made using audio/visual equipment or  
18 technology shall be provided, listing the specific equipment.

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

20  
21 **SECTION 67.16. MINUTES.**

22 ~~The clerk or secretary of each board and commission enumerated in the Charter shall~~  
23 ~~record the minutes for each regular and special meeting of the board or commission.~~

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1           (a)    The clerk or secretary of each all board and commission policy bodies shall  
2 record the minutes for each regular and special meeting of ~~the board or commission~~ those  
3 bodies.

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

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

25

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1           ~~(e) All non-charter boards and commissions and their committees and sub-~~  
2 ~~committees must keep, and have available for public inspection, minutes of the proceedings~~  
3 ~~of each regular or special meeting, identifying the members in attendance, and recording the~~  
4 ~~vote of each member on action items. However, non-charter boards and commissions and~~  
5 ~~their committees and sub-committees need not comply with the format listed in paragraph (a)~~  
6 ~~above. If real time captioning is provided at a meeting, if separable, it shall also be posted~~  
7 ~~separately from the minutes on the web site. The City Administrator shall assist policy bodies~~  
8 ~~in carrying out their duties under this subsection. (Added by Ord. 265-93, App. 8/18/93;~~  
9 ~~amended by Proposition G, 11/2/99)~~

10  
11 **SECTION 67.17. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES.**

12           Every member of a policy body retains the full constitutional rights of a citizen to  
13 comment publicly on the wisdom or propriety of government actions, including those of the  
14 policy body of which he or she is a member. Policy bodies shall not sanction, reprove or  
15 deprive members of their rights as elected or appointed officials for expressing their  
16 judgments or opinions, including those which deal with the perceived inconsistency of non-  
17 public discussions, communications or actions with the requirements of state or federal law or  
18 of this ordinance. Every member of a policy body shall be allowed to speak freely on any  
19 issue before the body subject only to time limits, which may be imposed on all members  
20 equally. The release of specific factual information made confidential by state or federal law  
21 including, but not limited to, the privilege for confidential attorney-client communications, may  
22 be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor  
23 seeking an accusation of misconduct, or both. (Added by Ord. 265-93, App. 8/18/93;  
24 amended by Proposition G, 11/2/99)

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1 **SECTION 67.18. SUPERVISOR OF PUBLIC FORUMS**

2 (a) Within three months of the enactment of this provision, the City Attorney's office  
3 shall establish a Supervisor of Public Forums position, which can at the discretion of the City  
4 Attorney be combined with the existing Supervisor of Public Records position mandated by  
5 Section 67.21 of the Ordinance.

6 (b) Any person may petition the Supervisor of Public Forums for a determination  
7 whether a Policy Body or Passive Meeting Body has violated any provision of Article II, Public  
8 Access to Meetings, of this Ordinance. The Supervisor of Public Forums shall inform the  
9 petitioner, as soon as possible and within 10 days, of its determination on whether a violation  
10 occurred. This determination shall be in writing. Upon determination by the Supervisor of  
11 Public Forums that a violation has occurred, the Supervisor of Public Forum shall immediately  
12 order the Policy Body or Passive Meeting Body to correct such violation as soon as possible,  
13 but no later than at its next meeting. If the Policy Body or Passive Meeting Body fails to  
14 comply with any such order, the Supervisor of Public Forums shall notify the San Francisco  
15 Ethics Commission, Board of Supervisors, District Attorney, or the State Attorney General  
16 who shall take whatever measures they deem necessary and appropriate to insure  
17 compliance with the provision of this Ordinance. The Supervisor of Public Forums shall copy  
18 the Sunshine Commission on all correspondence pertaining to its duties under this  
19 subsection.

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ARTICLE III  
PUBLIC INFORMATION AND PUBLIC RECORDS

---

- 1  
2  
3  
4 Sec. ~~67.2019.~~ Definitions.  
5 Sec. ~~67.2120.~~ Process for Gaining Access to Public Records; Administrative  
6 Appeals.  
7 ~~Sec. 67.21 1.~~ ~~Policy Regarding Use and Purchase of Computer Systems.~~  
8 Sec. 67.21 Immediacy of Response; Immediate Disclosure  
9 Sec. 67.22 Production on Incremental or "Rolling Basis"  
10 Sec. ~~67.2223.~~ Release of Oral Public Information.  
11 Sec. ~~67.2324.~~ Public Review File - Policy Body Communications.  
12 Sec. ~~67.2425.~~ Public Information that Must Be Disclosed.  
13 ~~Sec. 67.25.~~ ~~Immediacy of Response.~~  
14 Sec. 67.26. Withholding Kept to a Minimum.  
15 Sec. 67.27 Prohibited Basis for Withholding  
16 Sec. ~~67.2728.~~ Justification of Withholding.  
17 Sec. ~~67.2829.~~ Fees for Duplication.  
18 Sec. 67.30 Minimum Standards; Electronic Records; Computer Systems; Web  
19 Posting  
20 Sec. 67.31 Policy Regarding Use and Purchase of Computers  
21 Sec. 67.32 Internet Access/World Wide Web Minimum Standards.  
22 Sec. ~~67.2933.~~ Index to Records.  
23 Sec. ~~67.29 1.33-1~~ Records and Correspondence Shall be Maintained and Shall Survive  
24 Tenure and Transition of Officials.  
25 Sec. ~~67.29 2.33-2~~ Internet Access/World Wide Web Minimum Standards.

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1 ~~Sec. 67.29-3.~~

2 Sec. 67.29-4.33-2 Lobbyist On Behalf of the City.

3 Sec. 67.29-5.33-3 Calendars of Certain Officials.

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

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

6

7 **SECTION 67.2019. DEFINITIONS.**

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

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

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

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

18

19 **SECTION 67.2420. PROCESS FOR GAINING ACCESS TO PUBLIC**  
20 **RECORDS INFORMATION; ADMINISTRATIVE APPEALS.**

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

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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.~~

3 (a) All City Departments and Policy Bodies that are subject to the provisions of this  
4 Ordinance shall have a designated also designate an employee within that Department  
5 or Policy Body as its custodian of records ("custodian of records"). Each custodian of records  
6 shall have written procedures and forms to streamline request and assist members of the  
7 public who request public records and information. The custodian of records shall have  
8 identified departmental deputies to fulfill this role when the custodian of records is unavailable.  
9 Department and Policy Body office shall have written procedures and forms that would assist  
10 members of the public who request public records. The procedures shall include, but not be  
11 limited to the following: the identification of the requested material, the time frame of the  
12 retrieval of the materials, the time that the member of the public can review the record, written  
13 justification when the Department or Policy Body refuses to release a document. The  
14 procedure for the review of the public documents shall allow for reasonable opportunities to  
15 review the records at a time convenient to both the requestor and the custodian of records.

16 (b) A custodian request for inspection or copying of a public records may shall, as  
17 soon as possible and within ten days following receipt of a request for inspection or copy of a  
18 public record, comply with such request. Such request may be delivered submitted to the  
19 office Office a Department, Policy Body or of the custodian of records by the requester orally  
20 or in writing by fax, postal U.S. Mail, hand delivery, or e-mail or other means. If the custodian  
21 believes the record or information requested is not a public record or is exempt, the custodian  
22 shall justify withholding any record by demonstrating, in writing as soon as possible and within  
23 ten days following receipt of a request, that the record in question is exempt under express  
24 provisions of this ordinance.

25



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1        (c) A custodian of records shall ensure that, as soon as possible but no later than 10  
2 calendar days following the receipt of the request, by the Office of a Department, Policy Body  
3 or custodian of records shall, comply with the request by doing the following:

4        (1) If the requester seeks a copy of public records, the custodian of records,  
5 or her/his designee, shall provide one copy thereof shall be provided upon payment  
6 of a reasonable copying charge, not to exceed the actual cost of physical  
7 duplication or ten cents per page, whichever is less;

8        (2) If the requester seeks to inspect public records, the custodian of records,  
9 or her/his designee, shall allow for a reasonable opportunity for the  
10 requester to review the records shall be provided during normal and  
11 reasonable business hours, without unreasonable delay and without requiring an  
12 appointment, or at another time convenient to both the requester and the  
13 custodian of records. In no event shall the custodian of records be required to hold  
14 the records set the records aside for review for longer than 14 days, unless agreed  
15 to between the requester and the custodian of records.

16        (3) If the Department, Policy Body or custodian of records believes the record or  
17 information requested is, in whole or in part, exempt from disclosure, the custodian  
18 shall justify the withholding or redaction shall be justified in writing  
19 pursuant to Section 67.28 of this Ordinance. of any record by demonstrating, in  
20 writing, that the information in question is exempt under identified expressed  
21 provisions of this Ordinance.

22        (4) An oral request for information shall be treated as a written request. Oral requests  
23 that are not fulfilled by an employee immediately shall be documented as to date,  
24 time, place and requester by the Department or Policy Body in order to maintain a  
25 public record of the public request.

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1           ~~(e)(d)~~ A custodian of a public records shall assist a requester in identifying the  
2 existence, form, and nature of any records or information maintained by, available to, or in the  
3 custody of the Department or Policy Body, eustodian, whether or not the contents of those  
4 records are exempt from disclosure and shall, when requested to do so, provide in writing  
5 within seven days following receipt of a request, a statement as to the existence, quantity  
6 amount or count, form, and nature of records, and physical or electronic location of records  
7 relating to a particular subject matter or questions with enough specificity to enable a  
8 requester to identify records in order to make a request under (b). ~~A custodian of any public~~ If  
9 the requested record, when or information is not in within the possession of the record  
10 requested, custody or control of the Department or Policy Body, the eustodian of  
11 recordsrequest shall be assist a requester in directing a directed to the request to the proper  
12 office Department, Policy Body or staff person, notifyingwith notification to the  
13 requesterrequester of that action.

14           <sup>1</sup> (e) The person seeking any records or information under this Ordinance need not  
15 state his or her reason for making the request or the use to which the information will be put,  
16 and requesters shall not be routinely asked to make such a disclosure. However, where a  
17 requested record contains information the majority of which is exempt from disclosure under  
18 the California Public Records Act or this Ordinance, the City Attorney or custodian of records  
19 may inform the requester of the nature and extent of the exempt and non-exempt information  
20 and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources  
21 for the information which may involve less redaction or, if necessary, to otherwise prepare a  
22 response to the request.

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<sup>1</sup> Provision moved from existing §67.25

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1           ~~(d)~~<sup>(f)</sup> If the custodian refuses, fails to comply, or incompletely complies with a request  
2 described in (b), the person making the request may petition the ~~supervisor~~ Supervisor of  
3 ~~records~~ Records for a determination whether the record requested is disclosable public  
4 in whole or in part. The supervisor of records shall inform the petitioner, as soon as possible  
5 and within 10 days of its determination, ~~of its determination whether the record requested, or~~  
6 ~~any part of the record requested, is public. Where requested by the petition, and where~~  
7 ~~otherwise desirable, this~~ This determination shall be in writing. Upon the determination by the  
8 supervisor of records that the record is ~~public~~ disclosable, in whole or in part, the supervisor of  
9 records shall immediately order the custodian of the public record to comply with the person's  
10 request. If the custodian refuses or fails to comply with any such order within 5 days, the  
11 supervisor of records shall notify the ~~district attorney or the attorney general~~ San Francisco  
12 Ethics Commission, Board of Supervisors, District Attorney, or the State Attorney General  
13 who shall take whatever measures ~~she or he deems~~ they deem necessary and appropriate to  
14 insure compliance with the provisions of this ordinance. Ordinance. The Supervisor of  
15 Records shall copy all correspondence pertaining to its duties under this subsection to the  
16 Sunshine Commission's public review file.

17           <sup>1, 2, 3</sup> ~~(d)~~<sup>(e)</sup>~~(g)~~ If the custodian refuses, fails to comply, or incompletely complies with a  
18 request described in subsection (b) above or if a petition is denied or not acted on by the  
19 ~~supervisor~~ Supervisor of public ~~Public records~~ Records, the person making the request may  
20 petition the ~~Sunshine Task Force~~ Sunshine Commission for a determination whether the  
21 record requested is ~~public~~ disclosable, in whole or in part. ~~The Task Force shall inform the~~  
22 ~~petitioner, as soon as possible and within 2 days after its next meeting but in no case later~~  
23

24 \_\_\_\_\_  
25 <sup>1</sup> Provisions dealing with Sunshine Commission hearings moved to Article IV "Hearings and Orders of Detmn."

<sup>2</sup> Provisions dealing with enforcement of Orders of Determination moved to Article IV "Admin Enforcement..."

<sup>3</sup> Provisions dealing with staffing of Sunshine Commission moved to Article IV "Responsibility for Administration."

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1 ~~than 45 days from when a petition in writing is received, of its determination whether the~~  
2 ~~record requested, or any part of the record requested, is public. Where requested by the~~  
3 ~~petition, and where otherwise desirable, this determination shall be in writing. Upon the~~  
4 ~~determination that the record is public, the Sunshine Task Force shall immediately order the~~  
5 ~~custodian of the public record to comply with the person's request. If the custodian refuses or~~  
6 ~~fails to comply with any such order within 5 days, the Sunshine Task Force shall the district~~  
7 ~~attorney or the attorney general who may take whatever measures she or he deems~~  
8 ~~necessary to insure compliance with the provisions of this ordinance. The Board of~~  
9 ~~Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow~~  
10 ~~the Sunshine Task Force to fulfill its duties under this provision. Where requested by the~~  
11 ~~petition, the Sunshine Task Force may conduct a public hearing concerning the records~~  
12 ~~request denial. An authorized representative of the custodian of the public records requested~~  
13 ~~shall attend any hearing and explain the basis for its decision to withhold the records~~  
14 ~~requested.~~

15 <sup>1, 2</sup> ~~(f) The administrative remedy provided under this article shall in no way limit the~~  
16 ~~availability of other administrative remedies provided to any person with respect to any officer~~  
17 ~~or employee of any agency, executive office, department or board; nor shall the administrative~~  
18 ~~remedy provided by this section in any way limit the availability of judicial remedies otherwise~~  
19 ~~available to any person requesting a public record. If a custodian of a public record refuses or~~  
20 ~~fails to comply with the request of any person for inspection or copy of a public record or with~~  
21 ~~an administrative order under this section, the superior court shall have jurisdiction to order~~  
22 ~~compliance.~~

23

24

25

<sup>1</sup> Provisions dealing with administrative remedy not limiting availability of other administrative or judicial remedies moved to Article IV "Administrative Enforcement Provisions."

<sup>2</sup> Provisions dealing with jurisdiction of Superior Court moved to Article IV "Public Enforcement Provision."

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1 ~~<sup>1</sup>(g) In any court proceeding pursuant to this article there shall be a presumption that~~  
2 ~~the record sought is public, and the burden shall be upon the custodian to prove with~~  
3 ~~specificity the exemption which applies.~~

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

13 ~~<sup>3</sup>(i) The San Francisco City Attorney's office shall act to protect and secure the~~  
14 ~~rights of the people of San Francisco to access public information and public meetings and~~  
15 ~~shall not act as legal counsel for any city employee or any person having custody of any~~  
16 ~~public record for purposes of denying access to the public. The City Attorney may publish~~  
17 ~~legal opinions in response to a request from any person as to whether a record or information~~  
18 ~~is public. All communications with the City Attorney's Office with regard to this ordinance,~~  
19 ~~including petitions, requests for opinion, and opinions shall be public records.~~

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

23  
24 

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<sup>1</sup> Provisions dealing with court presumptions moved to Article IV "Public Enforcement Provisions."

25 <sup>2</sup> Provisions regarding reports by the Supervisor of Public Records moved to Article IV "Role of City Attny..."

<sup>3</sup> Provisions regarding role of the City Attorney, advice, etc. moved to Article IV "Role of City Attny..."

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

6           ~~(l)(i)~~ Inspection and copying of documentary public information stored in electronic  
7 form shall be made available to the person requesting the information in any form requested  
8 the information is held by the Department or Policy Body, any format that has been used by  
9 the Department or Policy Body to create copies for its own use or for provision to other  
10 agencies, or which is available to or easily generated by the department Department or Policy  
11 Body, its officers or employees, including disk, tape, printout or monitor at a charge no greater  
12 than the cost of the media on which it is duplicated. Inspection of documentary public  
13 information on a computer monitor need not be allowed where the information sought is  
14 necessarily and unseparably inseparably intertwined with information not subject to disclosure  
15 under this ordinance Ordinance. Nothing in this section shall require a department to create a  
16 new computer program or reprogram a computer system to respond to a request for  
17 information or ~~to release information where the release of that information would violate a~~  
18 ~~licensing agreement or copyright law. would jeopardize or compromise the security or integrity~~  
19 ~~of the original record or of any proprietary software in which it is maintained.~~ (Added by Ord.  
20 265-93, App. 8/18/93; amended by Ord. 253-96, App. 6/19/96; Proposition G, 11/2/99)

21  
22 **~~SEC. 67.21-1. POLICY REGARDING USE AND PURCHASE OF COMPUTER 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 or filed~~  
10 ~~separately from otherwise disclosable information.~~

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

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

17  
18 **SECTION 67.21. IMMEDIACY OF RESPONSE; IMMEDIATE DISCLOSURE REQUEST**

19 **(New/Renumbered section from 67.25)**

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 (b) Notwithstanding the 10-day period for response to a request permitted in section  
24 67.21(c) of this Ordinance, a written request for information described in any category of non-  
25 exempt public information shall be satisfied no later than the close of business on the day

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1 following the day of the request. This deadline shall apply only if the words "Immediate  
2 Disclosure Request" are placed across the top of the request and on the envelope, subject  
3 line, or cover sheet in which the request is transmitted, and only if the request is received by 4  
4 PM. Immediate Disclosure Requests are appropriate for records which are readily identifiable  
5 and maintained by the Department or Policy Body in its active files. Requests to inspect or for  
6 copies of documents which must be gathered from multiple sources or offices, or document  
7 maintained in a remote storage facility are not appropriate for Immediate Disclosure  
8 Requests.

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

16  
17 **SECTION 67.22. PRODUCTION ON INCREMENTAL OR "ROLLING" BASIS**

18 **(New/Renumbered section moved from 67.25)**

19 In response to a request under this Ordinance the Department, Policy Body, or  
20 custodian of records shall produce any and all responsive public records as soon as  
21 reasonably possible, and where requested, on an incremental or "rolling" basis such that  
22 responsive records are provided as soon as possible by the end of the same business day  
23 that they are reviewed and collected. This section is intended to prohibit the withholding of  
24 public records that are responsive to a request until all potentially responsive documents have  
25 been reviewed and collected. Failure to comply with this provision is a violation of this



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1 Ordinance. Each custodian of a public record shall keep notes of the time and personnel  
2 used to comply with records request under this section.

3  
4 **SECTION 67.2223. RELEASE OF ORAL PUBLIC INFORMATION.**

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

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

16 (b) The role of the person or persons so designated shall be to provide information  
17 on as timely and responsive a basis as possible to those members of the public who are not  
18 requesting information from a specific person. Each public employee has a duty to respond to  
19 enquiries from the public. This section shall not be interpreted to curtail existing informal  
20 contacts between employees and members of the public when these contacts are occasional,  
21 ~~acceptable to the employee and the department~~, not disruptive of his or her operational duties  
22 and confined to accurate information not confidential by law.

23 (c) ~~No employee shall be required to respond to an inquiry or inquiries from an~~  
24 ~~individual if~~ If it would take an the employee more than fifteen minutes to obtain the  
25 information responsive to an the inquiry or inquiries from a member of the public, the

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1 ~~employee shall notify the~~, the employee shall notify the requesterrequester of the procedures  
2 for obtaining records under sections 67.21(a), (b), and (c), and 67.2567.23 of this Ordinance,  
3 and provide an appropriate form for that request if available.

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

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

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

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1 ~~against the City and the supervisor imposing the discipline. (Added by Ord. 265-93, App.~~  
2 ~~8/18/93; amended by Proposition G, 11/2/99)~~

3  
4 **SECTION 67.2324. PUBLIC REVIEW FILE - POLICY BODY COMMUNICATIONS.**

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

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

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

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1  
2 **SECTION 67.2425. PUBLIC INFORMATION THAT MUST BE DISCLOSED.**

3 ~~All City Departments and Policy Bodies that are subject to the provisions of this~~  
4 ~~Ordinance shall establish a written policy consistent with this Ordinance and the California~~  
5 ~~Public Records Act that would clearly establish a reasonable procedure for the release of~~  
6 ~~public records for review and coping as stated in section 67.21 of this Ordinance.~~

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

11 (a) Drafts and Memoranda.

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

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

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1 ~~case of negotiations for a contract, lease or other business agreement in which an agency of~~  
2 ~~the City is offering to provide facilities or services in direct competition with other public or~~  
3 ~~private entities that are not required by law to make their competing proposals public or do not~~  
4 ~~in fact make their proposals public, the policy body may postpone public access to the final~~  
5 ~~draft agreement until it is presented to it for approval.~~

6 (b) Litigation and Attorney-Client Material.

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

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

10 (ii) A record ~~previously-received or created by a department~~Policy Body or  
11 Department in the ordinary course of business that was not ~~attorney/client~~attorney-client  
12 privileged when at the time it was previously-received or created;

13 (iii) Advice on compliance with, analysis of, an opinion concerning liability or duties  
14 under, or any communication otherwise concerning the California Public Records Act, the  
15 Ralph M. Brown Act, the Political Reform Act, any San Francisco governmental ethics  
16 ~~code~~Ethics Code, or this Ordinance.

17 (2) Unless otherwise ~~privileged-prevented~~ under an express provision of California  
18 law, when litigation is finally adjudicated or otherwise settled, records of all communications  
19 between the Policy Body or Department~~department~~ and the adverse party shall be subject to  
20 disclosure, including the text and terms of any settlement.

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

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

4 (i) Sex, age and ethnic group;

5 (ii) Years of graduate and undergraduate study, degree(s) and major or discipline;

6 (iii) Years of employment in the private and/or public sector;

7 (iv) Whether currently employed in the same position for another public agency.

8 (v) Other non-identifying particulars as to experience, credentials, aptitudes, training  
9 or education entered in or attached to a standard employment application form used for the  
10 position in question.

11 (2) The professional biography, curriculum vitae or job application of any applicant,  
12 whether successful or not, for a position as a Department Head, or member of a City  
13 Commission, Task Force or City commissioners; provided that the home address, home  
14 telephone number, social security number, age, and marital status of the applicant shall be  
15 redacted.

16 ~~(2)~~(3) The professional biography, ~~or~~ curriculum vitae or job application of any  
17 employee, provided that the home address, home telephone number, social security number,  
18 age, and marital status of the employee shall be redacted.

19 ~~(3)~~(4) The job description of every employment classification.

20 ~~(4)~~(5) The exact employment classification, gross salary and City-paid benefits  
21 available to ~~every~~ each employee identified by name, as well as salary actually earned,  
22 including all overtime, compensatory time, and paid leave time.

23 ~~(5)~~(6) Any memorandum of understanding between the City or department and a  
24 recognized employee organization.

25

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1           ~~(6)~~(7) The amount, basis, and recipient of any performance-based increase in  
2 compensation, benefits, or both, or any other bonus, awarded to any employee, ~~which. To the~~  
3 extent the performance-based award is granted by a Policy Body, the details of that award  
4 shall be announced during the open session of a ~~policy body~~Policy Body at which the award is  
5 approved.

6           ~~(7)~~(8) ~~The All records regarding confirmed employee of any confirmed misconduct, of~~  
7 ~~a public employee involving personal dishonesty, misappropriation of public funds, resources~~  
8 ~~or benefits, unlawful discrimination against another on the basis of status, abuse of authority,~~  
9 ~~or violence, and or allegations of misconduct that are of a substantial nature, as distinct from~~  
10 the baseless or trivial, and there is reasonable cause to believe that complaint is well founded,  
11 including records of any discipline or warnings imposed for such misconduct. Any  
12 investigation and report regarding allegations of employee misconduct – whether or not the  
13 investigation is conducted by an attorney – shall be released upon conclusion of that  
14 investigation where the allegations have been found to be substantial, even if there is no  
15 ultimate finding of misconduct, no discipline imposed, or warning issued.

16           (d) Law Enforcement Information.

17           The District Attorney, Chief of Police, and Sheriff are encouraged to cooperate with the  
18 press and other members of the public in allowing access to local records pertaining to  
19 investigations, arrests, and other law enforcement activity. However, no provision of this  
20 ~~ordinance~~Ordinance is intended to abrogate or interfere with the constitutional and statutory  
21 power and duties of the District Attorney and Sheriff as interpreted under Government Code  
22 section 25303, or other applicable state law or judicial decision. Records pertaining to any  
23 investigation, arrest or other law enforcement activity shall be disclosed to the public once the  
24 District Attorney or court determines that a prosecution will not be sought against the subject  
25 involved, or once the statute of limitations for filing charges has expired, whichever occurs

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1 first. Notwithstanding the occurrence of any such event, individual items of information in the ( (

2 following categories may be segregated and withheld if, on the particular facts, the public

3 interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

4 (1) The names of juvenile witnesses (whose identities may nevertheless be

5 indicated by substituting a number or alphabetical letter for each individual interviewed);

6 (2) Personal or otherwise private information related to or unrelated to the

7 investigation if disclosure would constitute an unwarranted invasion of privacy;

8 (3) The identity of a confidential source;

9 (4) Secret investigative techniques or procedures;

10 (5) Information whose disclosure would endanger law enforcement personnel; or

11 (6) Information whose disclosure would endanger the successful completion of an

12 investigation where the prospect of enforcement proceedings is concrete and definite.

13 This subdivision shall not exempt from disclosure any portion of any record of a

14 concluded inspection or enforcement action by an officer or department responsible for ( (

15 regulatory protection of the public health, safety, or welfare.

16 (e) Requests, Contracts, Bids and Proposals

17 (1) All City Requests for Bids (RFB), Requests for Proposals ("RFP"), Requests for

18 Quotes ("RFQuote"), Requests for Information ("RFI"), and Requests for Qualifications

19 ("RFQ") shall be posted on the City's website from the date of issuance and also kept in a

20 central repository and shall be made available for public inspection.

21 (2) All responses to a RFQuote, RFI, and RFQ are public records that shall be

22 made public upon receipt by the City. The City is encouraged to post all responses to

23 RFQuotes, RFIs and RFQs on the City's websites.

24 ~~(4)(3)~~ Contracts, contractors' bids, responses to requests for proposals RFBs, RFPs

25 and all other records of communications between the department Department and persons or



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

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

16 (2)(5) Notwithstanding the provisions of this subdivision or any other provision of this  
17 ordinance, the Director of Public Health may withhold from disclosure proposed and final rates  
18 of payment for managed health care contracts if the Director determines that public disclosure  
19 would adversely affect the ability of the City to engage in effective negotiations for managed  
20 health care contracts. The authority to withhold this information applies only to contracts  
21 pursuant to which the City (through the Department of Public Health) either pays for health  
22 care services or receives compensation for providing such services, including mental health  
23 and substance abuse services, to covered beneficiaries through a pre-arranged rate of  
24 payment. This provision also applies to rates for managed health care contracts for the  
25 University of California, San Francisco, if the contract involves beneficiaries who receive

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1 services provided jointly by the City and University. This provision shall not authorize the  
2 Director to withhold rate information from disclosure for more than three years.

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

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

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

10 (iii) any franchise agreements;

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

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

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1 this Article posted to the City's website and also kept in a central repository and shall be made  
2 available for public inspection and copying.

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

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

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

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1           ~~(h) — 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 "deliberative process"~~  
3 ~~exemption, either as provided by California Public Records Act Section 6255 or any other~~  
4 ~~provision of law that does not prohibit disclosure.~~

5           ~~(i) — Neither the City, nor any office, employee, or agent thereof, may assert an~~  
6 ~~exemption for withholding for any document or information based on a finding or showing that~~  
7 ~~the public interest in withholding the information outweighs the public interest in disclosure.~~  
8 ~~All withholdings of documents or information must be based on an express provision of this~~  
9 ~~ordinance providing for withholding of the specific type of information in question or on an~~  
10 ~~express and specific exemption provided by California Public Records Act that is not~~  
11 ~~forbidden by this ordinance. (Added by Ord. 265 93, App. 8/18/93; amended by Ord. 292 95,~~  
12 ~~App. 9/8/95; Ord. 240 98, App. 7/17/98; Proposition G, 11/2/99) (Moved to new 67.28)~~

13  
14 **~~Section 67.25. IMMEDIACY OF RESPONSE.~~**

15           ~~(a) — Notwithstanding the 10 day period for response to a request permitted in~~  
16 ~~Government Code Section 6253-6256 and in this Article, a written request for information~~  
17 ~~described in any category of non-exempt public information shall be satisfied with a response~~  
18 ~~to the requester in the mode of communication that the request was received (i.e. fax, e-mail,~~  
19 ~~or mail) or in the mode requested by the requester no later than the close of business on the~~  
20 ~~day following the day of the request. This deadline shall apply only if the words "Immediate~~  
21 ~~Disclosure Request" are placed across the top of the request and on the envelope, subject~~  
22 ~~line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this~~  
23 ~~article are appropriate for more extensive or demanding requests, but shall not be used to~~  
24 ~~delay fulfilling a simple, routine or otherwise readily answerable request.~~

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1           ~~(b) — If the voluminous nature of the information requested, its location in a remote~~  
2 ~~storage facility or the need to consult with another interested department warrants an~~  
3 ~~extension of 14 10 days as provided in Government Code Section 6253(c)(1) 6456.1, the~~  
4 ~~requester shall be notified as required by the close of business on the business day following~~  
5 ~~the request.~~

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

14 Section 67.20.(e))

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

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

24  
25 **SECTION 67.26. WITHHOLDING KEPT TO A MINIMUM.**

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

### 13 14 SECTION 67.27. PROHIBITED BASIS FOR WITHHOLDING.

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

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

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

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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.

4  
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  
21 **SECTION 67.2829. FEES FOR DUPLICATION.**

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

23 (b) For documents routinely produced in multiple copies for distribution, e.g.  
24 meeting agendas and agenda packet ~~related materials~~, unless a special fee has been  
25

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1 established pursuant to subdivision (d) of this section, a fee not to exceed one cent per page (   
2 may be charged, plus any postage costs.

3 (c) For documents assembled and copied to the order of the requester, unless a   
4 special fee has been established pursuant to subdivision (d) of this section, a fee not to   
5 exceed ~~10 cents the actual cost of materials~~ 10 cents per page may be charged, plus any   
6 postage.

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

15 (e) Copies of video, audio, or digital ~~Video copies of video-recorded meetings shall~~   
16 ~~be provided to the public upon request for the actual cost of materials (i.e. Tape, disk, CD,~~   
17 ~~DVD) only. \$10.00 or less the actual cost of materials (i.e. tape) per meeting. Public requests~~   
18 ~~for video tapes shall be handled by the policy body whose meeting was recorded. Audio~~   
19 ~~tapes of audio taped meetings shall be provided upon public request for the actual cost of the~~   
20 ~~tape by the policy body whose meeting was recorded.~~ (Added by Ord. 265-93, App. 8/18/93;   
21 amended by Proposition G, 11/2/99)

22 (f) A policy body may charge a duplication fee of one cent per page for a copy of a   
23 public record prepared for consideration at a public meeting, unless a special fee has been   
24 established pursuant to the procedure set forth in Section 67.29(d). Neither this section nor   
25 the California Public Records Act (Government Code sections 6250 et seq.) shall be



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1 construed to limit or delay the public's right to inspect any record required to be disclosed by  
2 that act, whether or not distributed to a policy body. (Added by Ord. 265-93, App. 8/18/93;  
3 amended by Proposition G, 11/2/99)

4  
5 **SECTION 67.30. MINIMUM STANDARDS; ELECTRONIC RECORDS; COMPUTER**  
6 **SYSTEMS; WEB POSTINGS.**

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

9 Unless prohibited by law, any Department or Policy Body that has information that  
10 constitutes and identifiable public record not wholly exempt from disclosure pursuant to an  
11 express provision of this Ordinance that is in an electronic format shall make that information  
12 available in the native electronic or the specifically requested format as follows:

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

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

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1           (3) Where public information stored in electronic form contains information  
2           that is exempt from disclosure pursuant to express provisions of this Ordinance, the  
3           Department or Policy Body shall ensure that exempt information is segregated or  
4           segregable from the disclosable information to allow disclosure or inspection of the  
5           non-exempt information in electronic format pursuant to this section.

6           (4) Inspection of documentary public information in the application in which it  
7           was created shall be allowed by providing reasonable access to a workstation provided  
8           by a Department or Policy Body. However, such inspection need not be allowed where  
9           the information sought is necessarily and inseparably intertwined with information  
10          exempt from disclosure under express provisions of this Ordinance.

11          (5) Nothing in this section shall require a Department or Policy Body to  
12          create a new computer program or system to respond to a request for information or to  
13          provide access that would jeopardize or compromise the security or integrity of the  
14          original record or violate a licensing agreement or copyright law.

15  
16          **(b) Converting Records to Electronic Format**

17          When responding to Sunshine Ordinance or public record requests, every Department  
18          and Policy Body shall, if requested, and if necessary technology and equipment are available,  
19          to transfer documents that are otherwise only available in hard copy/paper form into an  
20          electronic format that is searchable and electronically archivable for delivery via electronic  
21          mail or other electronic means and posting on the Department or Policy Body's Web site.

22  
23          **(c) Minimum Standards for Use, Purchase and Upgrading of Computer**  
24          **Systems.**

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

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

- 16           (i) Implementing a computer system in which exempt information is or  
17 can be easily segregated from otherwise disclosable information.
- 18           (ii) Implementing a system that permits reproduction of electronic  
19 copies of records in formats that are generally recognized as  
20 industry standards.
- 21           (iii) Implementing a system that permits making records available  
22 through the largest non-profit, non-proprietary public computer  
23 network, consistent with the requirement for security of  
24 information.
- 25

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1           (3) A Department or Policy Body shall not enter into a contract for the  
2           creation or maintenance of a computer system if that contract impairs the public's  
3           ability to inspect or copy public information.

4  
5           **(d) Minimum Internet and Website Standards**

6           Each Department and Policy Body shall maintain a Web site, or on a comparable,  
7           readily accessible location on the Internet, information that it is required to make publicly  
8           available.

9           (1) Each Department and Policy Body is encouraged to make publicly  
10           available through its Web site as much information and as many documents as  
11           possible concerning its activities. At a minimum, each Department or Policy Body  
12           within six months or 6 months after creation, shall post on its Web site all meeting  
13           notices required under this Ordinance, agendas, and the minutes of all previous  
14           meetings for the last three years. Notices and agendas shall be posted no later than  
15           the time that the Department or Policy Body otherwise distributes this information to the  
16           public, allowing reasonable time for posting. Minutes of meetings shall be posted as  
17           soon as possible, but in any event within 48 hours after they have been approved.

18           (2) Each Department and Policy Body shall make reasonable efforts to post  
19           documents and information on its web site in an industry standard, text searchable  
20           format.

21           (3) Each Department and Policy Body shall make reasonable efforts to  
22           ensure that its Web site is regularly reviewed for timeliness and updated on at least a  
23           weekly basis.

24           (4) Each Department and Policy Bodies home page shall contain a link, titled  
25           "Records and Sunshine," to a page wherein the name, phone number, and e-mail

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1 address of its custodian of records, and its records retention policy, and as reasonably  
2 practicable post Sunshine Ordinance and public documents requests and the  
3 responses thereto.

4 (5) As reasonably practicable, each Department and Policy Body that  
5 digitally records its meeting shall post those digital recordings to its web site within 48  
6 hours.

7 (6) The City and County shall also make available on its Web site, or on a  
8 comparable, readily accessible location on the Internet, a current copy of the City  
9 Charter and all City Codes.

10  
11 **SECTION 67.2131. POLICY REGARDING USE AND PURCHASE OF COMPUTER**  
12 **SYSTEMS.**

13 (a) It is the policy of the City and County of San Francisco to utilize computer  
14 technology in order to reduce the cost of public records management, including the costs of  
15 collecting, maintaining, and disclosing records subject to disclosure to members of the public  
16 under this section. To the extent that it is technologically and economically feasible,  
17 departments that use computer systems to collect and store public records shall program and  
18 design these systems to ensure convenient, efficient, and economical public access to  
19 records and shall make public records easily accessible over public networks such as the  
20 Internet.

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

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

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

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

7  
8           **SECTION 67.32. INTERNET ACCESS/WORLD WIDE WEB MINIMUM STANDARDS**

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

24          (a) Unless otherwise prohibited by law, any agency that has information that  
25          constitutes an identifiable public record not exempt from disclosure pursuant to this chapter

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1 that is in an electronic format shall make that information available in an electronic format  
2 when requested by any person and, when applicable, shall comply with the following:

3 (1) The agency shall make the information available in any electronic format  
4 in which it holds the information.

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

9 (b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the  
10 cost of producing a copy of the record, including the cost to construct a record, and the cost of  
11 programming and computer services necessary to produce a copy of the record when either  
12 of the following applies:

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

16 (2) The request would require data compilation, extraction, or programming  
17 to produce the record.

18 (c) Nothing in this section shall be construed to require the public agency to  
19 reconstruct a record in an electronic format if the agency no longer has the record available in  
20 an electronic format.

21 (d) If the request is for information in other than electronic format, and the  
22 information also is in electronic format, the agency may inform the requester that the  
23 information is available in electronic format.

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

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

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

7  
8       **SECTION 67.2933. INDEX TO RECORDS.**

9           The City and County shall prepare a public records index that identifies the types of  
10 information and documents maintained by City and County departments, agencies, boards,  
11 commissions, and elected officers. The index shall be for the use of City officials, staff and  
12 the general public, and shall be organized to permit a general understanding of the types of  
13 information maintained, by which officials and departments, for which purposes and for what  
14 periods of retention, and under what manner of organization for accessing, e.g. by reference  
15 to a name, a date, a proceeding or project, or some other referencing system. The index  
16 need not be in such detail as to identify files or records concerning a specific person,  
17 transaction or other event, but shall clearly indicate where and how records of that type are  
18 kept. Any such master index shall be reviewed by appropriate staff for accuracy and  
19 presented for formal adoption to the administrative official or policy body responsible for the  
20 indexed records. The City Administrator shall be responsible for the preparation of this  
21 records index. The City Administrator shall report on the progress of the index to the  
22 ~~Sunshine Ordinance Task Force~~ ~~Sunshine Commission~~ on at least a semi-annual basis until  
23 the index is completed. Each department, agency, commission and public official shall  
24 cooperate with the City Administrator to identify the types of records it maintains, including  
25 those documents created by the entity and those documents received in the ordinary course



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1 of business and the types of requests that are regularly received. Each department, agency,  
2 commission and public official is encouraged to solicit and encourage public participation to  
3 develop a meaningful records index. The index shall clearly and meaningfully describe, with  
4 as much specificity as practicable, the individual types of records that are prepared or  
5 maintained by each department, agency, commission or public official of the City and County.  
6 The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any  
7 changes in the department, agency, commission or public official's practices or procedures  
8 affecting the accuracy of the information provided to the City Administrator shall be recorded  
9 by the City Administrator on a periodic basis so as to maintain the integrity and accuracy of  
10 the index. The index shall be continuously maintained on the City's World Wide Website and  
11 made available at public libraries within the City and County of San Francisco. (Added by Ord.  
12 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

13  
14 **SECTION 67.29-433-1. RECORDS AND CORRESPONDENCE SHALL BE MAINTAINED,**  
15 **AND SHALL SURVIVE TENURE AND TRANSITION OF OFFICIALS.**

16 (a) All documents prepared, received, or maintained by the Office of the Mayor, by  
17 any elected ~~city~~ City and ~~county~~ County official, and by the head of any City or County  
18 Department – including but not limited to those enumerated in this Section – are permanently  
19 the property of the City and County of San Francisco. The originals of these documents shall  
20 be maintained consistent with the records retention and accessibility policies of the City and  
21 County of San Francisco. The City Attorney, or Deputy City Attorney shall monitor the  
22 transition of the Mayor, members of the Board of Supervisors, or any department head when  
23 he/she leaves office to ensure that public documents are not unlawfully removed or destroyed  
24 during the transition. These records shall be maintain and preserve, in a professional and  
25 businesslike manner, all documents and correspondence, including but not limited to letters,

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1 e-mails, drafts, memoranda, invoices, reports and proposals, and shall disclose all such  
2 records in accordance with this ordinance.

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

7 (c) In every contract, agreement or permit between the City and any outside entity  
8 that authorizes that entity to demand funds or fees from citizens, the City shall ensure that  
9 accurate records of every transaction are maintained and preserved in a professional and  
10 businesslike manner, and are available to the public as public records under the provisions of  
11 this ordinance. Failure of an entity to comply with these provisions shall be grounds for  
12 terminating the contract or for imposing a financial penalty equal to one-half of the fees  
13 derived under the agreement or permit during the duration of the failure. Failure of any  
14 Department to enforce or otherwise comply with this provision shall be a violation of this  
15 ordinance. This paragraph shall apply to every agreement allowing an entity to tow or  
16 impound vehicles in the City or to collect any fee from any persons in any pretrial diversion  
17 program.

18  
19 **~~SECTION 67.29-2. INTERNET ACCESS/WORLD WIDE WEB MINIMUM STANDARDS.~~**

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) (Moved to new 67.32)~~

10  
11 **SECTION 67.29-3**

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

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

21  
22 **SECTION 67.29-433-2. LOBBYIST ON BEHALF OF THE CITY.**

23 (a) Any lobbyist who contracts for economic consideration with the City and County of  
24 San Francisco to represent the City and County in matters before any local, regional, state, or  
25 federal administrative or legislative body shall file a public records report of their activities on a

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1 quarterly basis with the San Francisco Ethics Commission. This report shall be maintained by  
2 the Ethics Commission and not be exempt from disclosure. Each quarterly report shall identify  
3 all financial expenditures by the lobbyist, the individual or entity to whom each expenditure  
4 was made, the date the expenditure was made, and specifically identify the local, state,  
5 regional or national legislative or administrative action the lobbyist supported or opposed in  
6 making the expenditure. The failure to file a quarterly report with the required disclosures shall  
7 be a violation of this Ordinance.

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

23 (c) Funds of the City and County of San Francisco, including organizational dues, shall  
24 not be used to support any lobbying efforts to restrict public access to records, information, or  
25

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1 meetings, except where such effort is solely for the purpose of protecting the identity and  
2 privacy rights of private citizens. (Added by Proposition G, 11/2/99)

3  
4 **SECTION 67.29-533-3. CALENDARS OF CERTAIN ELECTED OFFICIALS, DEPARTMENT**  
5 **HEADS AND HEADS OF OTHER AGENCIES**

6 The Mayor, The City Attorney, ~~the members~~ Members of the Board of Supervisors, and  
7 ~~and every Department Head, and where legally required, the heads of agencies that are~~  
8 ~~discussed in section 67.32 of this ordinance~~ all elected officials and Department and Agency  
9 Heads of the City and County of San Francisco who are subject to this Ordinance shall keep  
10 the following publicly accessible calendars.

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

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

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

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

22 (c) For meetings with an individual – the individual's name and his or her business  
23 or other affiliation, and a general statement or summary of matters discussed shall be  
24 included on the calendar, unless disclosing the individual's name or other identifying  
25

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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 public records and shall be available to any  
4 requester three business days subsequent to the calendar entry date posted to the  
5 Department or Elected Official's web site at the state of each business day.

6 (e) Each public official subject to this section is encouraged to post his or her  
7 calendar in as far in advance as is practicable. (Added by Proposition G, 11/2/99)

8  
9 **SECTION 67.29-633-4. SOURCES OF OUTSIDE FUNDING.**

10 No official or employee or agent of the ~~city~~ City shall accept, allow to be collected, or  
11 direct or influence the spending of, any money, or any goods or services worth more than one  
12 hundred dollars in aggregate, for the purpose of carrying out or assisting any City function  
13 unless the amount and source of all such funds is disclosed as a public record and made  
14 available on the website for the department to which the funds are directed. When such funds  
15 are provided or managed by an entity, and not an individual, that entity must agree in writing  
16 to abide by the disclosure requirement of this ordinance Ordinance. The disclosure shall  
17 include the names of all individuals or organizations contributing such money and a statement  
18 as to any financial interest the contributor has involving the City. (Added by Proposition G,  
19 11/2/99)

20  
21 **SECTION 67.29-7. CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.**

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

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

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

16 ~~67.33.1)~~

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

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Sec. ~~67.30-34~~ The Sunshine Ordinance Task Force Sunshine Commission

Sec. ~~67.31-35~~ Responsibility for Administration.

Sec. ~~67.32-36~~ Provision of Services to Other Agencies; Sunshine Required.

Sec. ~~67.33-37~~ Department Head Declaration.

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

Sec. 67.39 Hearing and Orders of Determination

Sec. 67.40 Administrative Enforcement Provisions

Sec. ~~67.34-41~~ Willful Failure Shall be Official Misconduct.

Sec. 67.42 Referrals and Enforcement by the Ethics Commission

Sec. ~~67.35-43~~ Public Enforcement Provisions.

Sec. ~~67.36-44~~ Sunshine Ordinance Supersedes Other Local Laws.

Sec. ~~67.37-45~~ Severability.

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

**SECTION ~~67.30-34~~. THE ~~SUNSHINE ORDINANCE TASK FORCE~~ SUNSHINE  
COMMISSION**

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



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

22 (b) The term of each appointive member shall be two years unless earlier removed  
23 by the Board of Supervisors. In the event of such removal or in the event a vacancy otherwise  
24

25 

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<sup>1</sup> Reference to City Attorney moved to Article IV "Role of City Attorney's Office; Advice..."

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1 occurs during the term of office of any appointive member, a successor shall be appointed for  
2 the unexpired term of the office vacated in a manner similar to that described herein for the  
3 initial members. The ~~task force~~ COMMISSION shall elect a chair and vice chair from among  
4 its ~~appointive voting~~ members. The term of office as for the chair and vice chair shall be one  
5 year. Members of the ~~task force~~ COMMISSION shall serve without compensation.

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

24 (d) ~~The Task Force~~ COMMISSION shall conduct administrative hearings on  
25 complaints of made by members of the public for alleged violations of the public meeting or

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1 ~~public records provisions of the Ordinance, violations of the State California Public Records~~  
2 ~~Act, or the State Brown Act governing public meetings. The Task Force COMMISSION may~~  
3 ~~issue Orders of Determination following the hearing on a particular complaint. An Order of~~  
4 ~~Determination finding a violation of the Ordinance, the California Public Records Act or the~~  
5 ~~Brown Act above state laws shall be evidence of such violation in any other administrative or~~  
6 ~~judicial proceeding~~

7 ~~(e) In the event that the Task Force COMMISSION issues an Order of~~  
8 ~~Determination finding that any person or entity covered by the Sunshine Ordinance violated~~  
9 ~~the Ordinance in handling public meetings or release of public records, the Task Force~~  
10 ~~COMMISSION may require that entity or the entity to which the person or entity who has~~  
11 ~~violated the ordinance reports to schedule at its next regularly scheduled meeting the Order of~~  
12 ~~Determination for its discussion and response.~~

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

16 ~~(f) Unless otherwise prohibited by state law or other existing local ordinance, the~~  
17 ~~Task Force COMMISSION may subpoena witnesses, compel their attendance and testimony,~~  
18 ~~administer oaths and affirmation, take evidence and require by subpoena the production of~~  
19 ~~any books, papers, records or other items material to the performance of the Task Force's~~  
20 ~~COMMISSION'S duties or exercise of its powers.~~

21 ~~(g) (1) In the event the Task Force COMMISSION finds a serious and willful~~  
22 ~~violation of the Ordinance, the Task Force COMMISSION by a 2/3 vote of the entire body may~~  
23 ~~seek appoint outside counsel to prosecute the violation(s) of the Ordinance in the Civil Courts~~  
24 ~~to the extent permitted by the City Charter.~~

25

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1 ~~(2) The amount of expenditure shall be for outside counsel governed by the budget~~  
2 ~~provisions of the City Charter and in no event shall the expenditure to prosecute these cases~~  
3 ~~shall be no more than \$50,000.00 per fiscal year. The COMMISSION shall adopt bylaws to~~  
4 ~~provide oversight of appointed counsel and expenditures. [Subsection 67.30 (d), (e), (f), and~~  
5 ~~(g) were moved to new Section 67.35]~~

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

9 (g) (i)(e) In addition to the powers specified above, the Task Force COMMISSION  
10 shall possess such powers as the Board of Supervisors may confer upon it by ordinance or as  
11 the 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.<sup>1</sup> ~~The Clerk of the Board of Supervisors shall provide a full-time staff at least one~~

24  
25 <sup>1</sup> Sentenced moved/copied verbatim, from existing §67.21(e)

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

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

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

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1 their official capacities shall be open to the public, and this provision cannot be waived by any  
2 City officer, agent or representative.

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

9 ~~(b) Compliance with the Ordinance is a condition precedent to the execution of any~~  
10 ~~new or renewed contract made between the City and any other entity including but not limited~~  
11 ~~to non-profit corporations, where the City issues payments totaling \$100,000.00 or more in~~  
12 ~~money or in-kind consideration.~~

13

14 **SECTION 67.3337. DEPARTMENT HEAD OPEN GOVERNMENT DECLARATION.**

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

25

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

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  
8 advice on legal issues that the Commission deems pertinent. An ethical wall will be  
9 maintained between the work of this attorney on behalf of the COMMISSION and any person  
10 or office that the COMMISSION determines may have a conflict of interest with regard to the  
11 matters being 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 (d) Notwithstanding the provisions of this section, the City Attorney may defend the  
24 City or a City Employee in litigation under this Ordinance to the extent required by State Law  
25 or the City Charter.

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1           <sup>1</sup>(e) Every year on September 30, and as otherwise requested by the Sunshine  
2 Commission, the Supervisor of Public Records and Supervisor of Public Forums shall prepare  
3 a tally and report of every petition brought before it for access to records and public forum  
4 questions since the time of its last tally and report. The report shall at least identify for each  
5 petition the record or records sought, the custodian of those records, the public forum  
6 question presented, the ruling of the Supervisor of Public Records and Supervisor of Public  
7 Forums, whether any ruling was overturned by a court and whether each order given to a  
8 custodian of public records and/or any employee, official, department, agency, or policy body  
9 was complied with. The report shall also summarize any court actions during that period  
10 regarding petitions the Supervisor of Public Records or Supervisor of Public Forums have  
11 decided as well as court actions regarding or implicating the Sunshine Ordinance. The report  
12 shall also include copies of all rulings made by the Supervisor of Public Records and  
13 Supervisor of Public Forums and all opinions issued.

14  
15 **SECTION 67.39. HEARINGS AND ORDERS OF DETERMINATION.**

16           (a) The COMMISSION shall conduct administrative hearings on complaints of  
17 alleged violations this Ordinance, the California Public Records Act, or the Brown Act. The  
18 COMMISSION may issue Orders of Determination following the hearing on a particular  
19 complaint. If the COMMISSION determines on the basis of substantial evidence presented  
20 during the hearing that a violation of the Ordinance, the California Public Records Act or the  
21 Brown Act has occurred, it shall issue an Order of Determination with written findings of fact  
22 and law. The Order of Determination shall issue to the Complainant and the Respondent and  
23 shall be posted on the Commission's website.

24  
25 <sup>1</sup> Provision moved from existing §67.21 (h) and supplemented to cover Supervisor of public forums and include court actions in Ordinance.



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1        <sup>1</sup>(b) To the extent not prohibited by State law the COMMISSION may subpoena  
2 witnesses, compel their attendance and testimony, administer oaths and affirmation, take  
3 evidence and require by subpoena the production of any books, papers, records or other  
4 items material to the performance of the COMMISSION'S duties or exercise of its powers.

5  
6        (c) An authorized representative of the respondent employee, official, department,  
7 agency, policy body, or custodian of public record who has personal knowledge of the matters  
8 alleged in the complaint shall attend each COMMISSION hearing and COMMISSION  
9 committee hearing to explain the response to the request for access to public meetings or  
10 public information, as well as provide a detailed description of the records search conducted,  
11 and the statutory or case law basis for any decision to withhold or redact the records  
12 requested as applicable.

13  
14        **SECTION 67.40. ADMINISTRATIVE ENFORCEMENT PROVISIONS.**

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

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<sup>1</sup> Section/language moved from 67.21 to new/revised 67.20

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1           **(b) Upon issuing an Order of Determination, the COMMISSION may require the**  
2 **governing entity to which the person or entity that has violated the Ordinance reports, to**  
3 **schedule at the governing entity's next regularly scheduled meeting the Order of**  
4 **Determination for its discussion and response.**

5           **(c) Upon issuing an Order of Determination, the COMMISSION may require the**  
6 **governing entity or department to which the person or entity that has violated the Ordinance**  
7 **reports, to post the Order of Determination prominently on the entity's or department's website**  
8 **for 60 days.**

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

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

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

20           **(e) The administrative remedies provided under this Ordinance shall in no way limit**  
21 **the availability of other administrative remedies provided to any person with respect to any**  
22 **officer or employee of any agency, executive office, department or policy body; nor shall the**  
23 **administrative remedy provided by this section in any way limit the availability of judicial**  
24 **remedies otherwise available to any person. If a custodian of a public record refuses or fails to**  
25 **comply with the request of any person for inspection or copy of a public record or with an**

1 Order of Determination under this Ordinance, the Superior Court shall have jurisdiction to  
2 order compliance.<sup>1</sup>

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

6  
7 **SECTION 67.3441. WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT.**

8 The willful failure of any elected official, department head, or other managerial city  
9 employee to person, office or entity to discharge any duties imposed by the Sunshine  
10 Ordinance, the Brown Act or the California Public Records Act shall be deemed official  
11 misconduct for purposes of this Ordinance and any other applicable provisions of the City  
12 Charter, Ordinances, and State law. If the Commission makes a determination that any  
13 person or entity has willfully failed to discharge any such duties, then the Commission shall  
14 refer with written findings of law and fact the matter to the Ethics Commission for  
15 enforcement. The Commission may also refer the matter by to the Board of Supervisors,  
16 District Attorney or the State Attorney General for investigation and enforcement. ~~Complaints~~  
17 ~~involving allegations of willful violations of this ordinance, the Brown Act or the Public Records~~  
18 ~~Act by elected officials or department heads of the City and County of San Francisco shall be~~  
19 ~~handled by the Ethics Commission.~~ (Added by Proposition G, 11/2/99)

20  
21 **SECTION 67.42. REFERRALS AND ENFORCEMENT BY THE ETHICS COMMISSION.**

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<sup>1</sup> Last sentence moved from 67.21(f) verbatim.

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

4           (i) The Chair or Vice-Chair of the COMMISSION and the underlying complainant  
5 in whose favor the COMMISSION'S Order of Determination was issued, shall both be  
6 considered the "complainant of record" for purposes of Ethics Commission investigations and  
7 enforcement of Orders of Determination.

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

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

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

18           (v) Upon referral the Sunshine Commission may, in a referral of a finding of  
19 official misconduct, recommend the level of fines that may be imposed.

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

22           (vii) Any such fines imposed by the Ethics Commission under this provision,  
23 shall be placed in the COMMISSIONS litigation fund.

24           (b) The COMMISSION'S Order of Determination and, as applicable, finding of willful  
25 violation constituting official misconduct, shall be evidence of a violation of this Ordinance or

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1 other applicable open government law in any Ethics Commission investigation or proceeding.  
2 Factual findings made during COMMISSION hearings and in its orders shall be reviewed for  
3 abuse of discretion.

4  
5 **SECTION 67.3543. PUBLIC ENFORCEMENT PROVISIONS.**

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

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

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

23 (d) Prior to any action being commenced pursuant to subsection (b), the person  
24 shall make a demand on the policy body to cure or correct the action alleged to have been  
25

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1 taken in violation of this Ordinance. The demand shall be in writing and clearly describe the  
2 challenged action of the policy body and the nature of the alleged violation.

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

5 (ii) Within 45 calendar days of receipt of the demand, the policy body shall cure or  
6 correct the challenged action and inform the complainant in writing of its actions  
7 to cure or correct or inform the complainant in writing of its decision not to cure  
8 or correct the challenged action.

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

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

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

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

23 (eg) Any person may institute proceedings for enforcement and penalties under this  
24 act in any court of competent jurisdiction or Ordinance before the Ethics Commission if  
25 enforcement action is not taken by a city or state official 40 days after a complaint is filed60

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1 calendar days after an Order of Determination was issued by the Sunshine Commission, the  
2 City department, entity, official, body or employee has not complied with the Order of  
3 Determination issued by the Sunshine Commission. (Added by Proposition G, 11/2/99)  
4

5 **SECTION 67.3644. SUNSHINE ORDINANCE SUPERSEDES OTHER LOCAL LAWS.**

6 The provisions of this Sunshine Ordinance supersede other local laws, including by not  
7 limited to the charter. Whenever a conflict in local law is identified, the requirement which  
8 would result in greater or more expedited public access to public information and meetings  
9 shall apply. (Added by Proposition G, 11/2/99)  
10

11 **SECTION 67.3745. SEVERABILITY.**

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

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

20 At and during a public meeting of any policy body governed by the San Francisco  
21 Sunshine Ordinance, the ringing and use of cell phones, pagers and similar sound-producing  
22 electronic devices shall be prohibited. The presiding officer of any public meeting which is  
23 disrupted may order the ~~removal~~removal from the meeting room of any person(s) responsible  
24 for the ringing or use of a cell phone, pager, or other similar sound-producing electronic  
25 devices. The presiding officer may allow an expelled person to return to the public meeting

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1 following an agreement by the expelled person to comply with the provisions of this Section. A  
2 warning of the provisions of this Section shall be printed on all meeting agendas, and shall be  
3 explained at the beginning of each public meeting by the presiding officer. (Added by Ord.  
4 286-00, File No. 001155. App. 12/22/2000)

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