

**SUNSHINE ORDINANCE TASK FORCE  
AGENDA PACKET CONTENT LIST**Committee: Sunshine Ordinance Task Force Date: 12/4/2024

<input type="checkbox"/> Complaint Summary	Page: _____
<input type="checkbox"/> Complaint	Page: _____
<input type="checkbox"/> Complainant's Supporting Documents	Page: _____
<input type="checkbox"/> Respondent's Supporting Documents	Page: _____
<input type="checkbox"/> Other Documents ( <i>Notice of Hearing, Communications, etc.</i> )	Page: _____
<input type="checkbox"/> Public Correspondence	Page: _____

**OTHER**

Compliance and Amendments	
Committee Review of the Sunshine	
<input checked="" type="checkbox"/> <u>Ordinance (through 10/22/2024)</u>	Page: _____
<input type="checkbox"/> _____	Page: _____

\*An asterisked item indicates a document that exceeds 25 pages. The complete document is in the file and available on a disk.

Completed By: Patricia H. Petersen (11/25/2024)

## SEC. 67.8. AGENDA DISCLOSURES: CLOSED SESSIONS.

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

(1) With respect to a closed session held pursuant to Government Code Section 54956.7: LICENSE/PERMIT DETERMINATION:

\_\_\_\_\_ applicant(s)

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

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

### CONFERENCE WITH REAL PROPERTY

#### NEGOTIATOR

Property:

Person(s) negotiating:

Under negotiation:

Price: \_\_\_\_\_ Terms of payment: \_\_\_\_\_ Both: \_\_\_\_\_

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

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

### CONFERENCE WITH LEGAL COUNSEL

Existing litigation:

\_\_\_\_\_ Unspecified to protect service of process

\_\_\_\_\_ Unspecified to protect settlement posture

or:

### CONFERENCE WITH LEGAL COUNSEL

Anticipated litigation: \_\_\_\_\_ As defendant \_\_\_\_\_ As plaintiff

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

**Commented [LL1]:** Member Wolfe: Someone should review Penal Code 832.7 et al. (look for case law citing it?) to see if we need to add sections for meetings and for records re: police activity and closed sessions.

**Commented [LL2]:** 1) Update to "California Government Code" in all instances 2) make sure sections are updated to new/correct code numbers

**Commented [LL3]:** Member Pilpel has significant edits on this section. Ask him to submit this section with line edits and clarify which text has been pulled in from other sections of the ordinance.

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

THREAT TO PUBLIC SERVICES OR FACILITIES

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

or:

PUBLIC EMPLOYEE APPOINTMENT/HIRING

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

PUBLIC EMPLOYEE PERFORMANCE

EVALUATION

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

or:

PUBLIC EMPLOYEE DISMISSAL

Number of employees affected:

or:

(5) With respect to every item of business to be discussed in closed session pursuant to

Government Code Section 54957.6, either:

CONFERENCE WITH NEGOTIATOR

COLLECTIVE BARGAINING

Name and title of City's negotiator:

Organization(s) representing:

Police officers, firefighters and airport police

Transit Workers

Nurses

Miscellaneous Employees

Anticipated issue(s) under negotiation:

Wages

Hours

Benefits

Working Conditions

Other (specify if known)

All

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

In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956.

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

**Commented [LL4]:** Look at how specific the Brown Act is here -- do we need this level of detail or perhaps more?

**Commented [LL5]:** Should this be "operators"?

**Commented [LL6]:** Maybe simplify this.

## **SEC. 67.8-1. ADDITIONAL REQUIREMENTS FOR CLOSED SESSIONS.**

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

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

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

## **SEC. 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.**

(a) Agendas of meetings and any other documents on file with the clerk of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public. To the extent possible, such documents shall also be made available through the policy body's Internet site. However, this disclosure need not include any material exempt from public disclosure under this ordinance.

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

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

(d) Records which are subject to disclosure under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

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

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

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

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

**Commented [LL7]:** Can we chance to "as soon as possible" or something else that implies that close session recordings are not meant to be kept confidential indefinitely.

**Commented [LL8]:** Seek legal advice on this -- do these guidelines make sense in terms of typical legal activity? Could the time be shortened in certain situations?

**Commented [LL9]:** First sentence might be duplicative with 67.8, with the exception that "the date the case was filed" needs to be added 67.8, otherwise first sentence here can be cut. Second sentence can be moved to disclosure provisions, as a separate/new subsection, in 67.12.

**Commented [LL10]:** Member Pilpel notes that "closed session" provisions are all over the ordinance and should be consolidated in one place. These include 67.8, 67.8-1 (fold into other places), 67.10, 67.11 and 67.12. Overall, should track as much as possible with the Brown Act and consolidate in one section. 1) On what basis might you have a closed session? Permitted topics. 2) How do you write closed session in an agenda? 3) What materials might you make available in advance? 4) What would be available after a closed session, in terms of records, both immediately and at a later date?

Allyson Washburn says above suggestion consolidation might be helpful, but would take some work.

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

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

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

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

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

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

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

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

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

**Commented [LL11]:** Pilpel also asks that the section on closed session mirror the Brown Act on concerns pertaining to security and cybersecurity threats and the ability to discuss those in closed session. Wolfe asks to balance this carefully with the public's right to know.

**Commented [LL12]:** Washburn asks: See San Franciscans for Sunshine's additional suggested cleanup edits for this section to make it more concise.

**Commented [LL13]:** Suggested by Allyson Washburn. Pilpel says might need to check with MEA MOU or other collective bargaining agreements that don't allow that. Member Anderson suggests addendum re: other standing agreements.

**Commented [LL14]:** Member Pilpel asks: Is this still operative? Need to ask Municipal Executives Association or the city's Employee Relations Division. If not, cut this graf, or reword if something else exists now.

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.57"

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

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

## SEC. 67.11. STATEMENT OF REASONS FOR CLOSED SESSIONS.

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

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

(c) Notwithstanding any other provision of this ordinance, an agenda for a closed session shall include a brief description of the subject matter of the closed session so as to permit meaningful public comment on the item.

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

## SEC. 67.12. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS.

(a) After every closed session, a policy body ~~may~~ in its discretion and in the public interest, disclose ~~in open session to the public~~ any portion of its discussion that is not confidential under federal or state law, the ~~E~~ charter, or non-waivable privilege. The ~~policy~~ body shall, by motion and vote in open session, elect either to disclose no information or to disclose ~~such the~~ information ~~as that~~ a majority deems to be in the public interest. ~~Such~~ The disclosure shall be made ~~by through~~ the presiding officer of the body or ~~such a~~ another person ~~who was~~ present in the closed session ~~and, whom he or she designated as by the presiding officer~~ to convey the information. ~~The policy body shall also disclose immediately after the closed session the names of the members of the policy body and the names of titles where applicable of any other persons who attended the closed session.~~

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

(1) Real Property Negotiations: Approval given to a policy body's negotiator concerning real estate negotiations pursuant to California Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the policy body shall report that approval, the substance of the agreement and the vote thereon ~~in open session immediately~~. If final approval rests with another party to the negotiations, the

**Commented [LL15]:** Washburn suggests adding this clause here and throughout the ordinance as needed.

Wolfe suggests adding references to where the Sunshine Ordinance stems from the CPRA throughout.

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.38"

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.38"

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Commented [LL16]:** Member Pilpel: Could we add some requirements for giving some general sense of where the city is in major hiring initiatives — ones covered by a city board or commission, i.e. department heads, and a few others.

**Commented [LL17]:** Member Pilpel suggest making 67.12 "post" disclosures

**Commented [LL18]:** Members Wolfe and Pilpel say we should consider removing these words and changing to "shall" — think about this.

**Commented [LL19]:** Wolfe and Pilpel debating what to do about members who step out during a vote — should this be noted? And what about documenting written resolutions adopted in closed sessions?

policy body or the city's negotiator shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in Subdivision (b) of this Section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both.

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

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

(4) Personnel~~Employee~~ Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to California Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any termination of employment at the will of the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclosed upon approval by the body. The amount, basis, name and title of any recipient of a bonus or other performance-based increase in compensation, benefits or both awarded to any city employee shall be reported in open session immediately following any closed session of such a policy body at which such an award is approved.

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

**Commented [LL20]:** Debate over "shall not" vs "may not"

**Commented [LL21]:** Move the two long sentences to 67.8 and 67.9 – suggestion by Pilpel

**Commented [LL22]:** Pilpel pulled this from 67.24(c)(6) to move it here.

**Commented [LL23]:** Pilpel says move this to 67.9 as a better place for it

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

(d) ~~(d)~~ A policy body shall post written summary of the information required to be ~~immediately reported pursuant to this Section, or documents containing embodying~~ that information, shall be posted by 4 p.m. the close of business on the first~~next~~ business day after the day of following the meeting, in the location~~place~~ where ~~the~~ meeting agendas of the body are posted or on the policy body's website.

(e) If the matter discussed in closed session involved anticipated litigation, the City Attorney's Office or policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court case number and the date the case was filed. ~~[[ALT LANGUAGE FROM PILPEL: For each agenda item for a policy body that involves anticipated litigation, the policy body or the City Attorney shall disclose, upon inquiry, whether such anticipated litigation developed into actual litigation. If so, the policy body or City Attorney shall identify the case name, court case number and the date the case was filed.]]~~

(f) For each closed session the policy body shall maintain a record of the date and time, subject matter and minutes, and at least quarterly, the policy body shall review these records and determine whether any part of the minutes, recordings or other records can now be made accessible to the public. The policy body will adopt a resolution stating the policy body has conducted the review and note which information has been made available.

(g) All closed sessions of a policy body shall be either audio recorded or audio and video recorded in their entirety, and all such recordings shall be retained permanently. Closed session recordings shall be made available whenever all rationales for closing the session are no longer applicable.

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

## SEC. 67.13. BARRIERS TO ATTENDANCE PROHIBITED.

(a) No policy body shall conduct any meeting, conference or other function in any facility or in a manner that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the Board of Supervisors, a board or commission enumerated in the charter, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

(b) ~~All policy bodies~~ Each board and commission enumerated in the charter shall provide sign language interpreters, assisted listening devices, or note-takers, or other accommodations needed by people with disabilities at any~~each regular~~ meeting, provided that a request for such services is communicated to the secretary, ~~or~~ clerk or other administrator of the policy body~~board or commission~~ at least 48 hours before the meeting, except for Monday meetings, for which the

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.38"

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Commented [LL24]:** Washburn suggested this and asks whether it should be REQUIRED to be disclosed as a matter of closing the loop on the closed session.

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Commented [LL25]:** Pilpel asks whether we need this.

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.38"

**Commented [LL26]:** Moved here from another section.

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

~~deadline shall be 4 p.m. of the last business day of the preceding week. When requests for such services are made by a member or members of the public at least 72 hours prior to a meeting, the policy body shall comply with the request. If the request is made less than 72 hours before the meeting, the policy body should attempt to comply with the request, if possible.~~

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

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

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

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

(g) All policy bodies and passive meeting bodies shall comply with the guidelines and recommendations of the Mayor's Office of Disabilities' accessible public event checklist.

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

## SEC. 67.14. VIDEO AND AUDIO RECORDING, FILMING AND STILL PHOTOGRAPHY.

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

**Commented [LL27]:** Do any policy bodies meet NOT at City Hall? Do we need to include other facilities?

**Commented [LL28]:** Is there an official accessible public event checklist monitored by any other city agency?

(b) ~~All policy bodies~~Each board and commission enumerated in the Charter shall audio record each regular and special meeting, including closed sessions. Each such audio recording, and any ~~other~~audio or video recording of a meeting ~~of any other policy body~~ made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section ~~7920~~6250 et seq.), ~~and shall not be erased or destroyed~~. These recordings shall be kept indefinitely by the city and shall not be erased or destroyed unless the recordings are being transferred into a different format for public access, archival or retrieval requirements. Each such recording shall be posted on the policy body's official website. Inspection and playback of any such recording also shall be provided without charge on an appropriate play back device or software made available by the City. Copies of any such recordings shall be provided upon request. The city may charge a fee to copy a record or records that is no greater than the cost of the medium on which the record or records are duplicated. Requests shall be made through the department, commission, task force or committee whose meeting is recorded. Requests shall be completed in the order of receipt, and no additional charges shall be assessed for expedited service.

Commented [LL29]: Simplify this!!

(c) Closed session recordings, made pursuant to section 67.14b, shall be made available whenever all rationales for closing the session are no longer applicable. Audio recordings of closed sessions of meeting bodies covered by this Ordinance wherein the justification for the closed session is "anticipated litigation" shall be released to the public in accordance with any of the following provisions: 2 years after the meeting if no litigation is filed; upon expiration of the statute of limitations for the anticipated litigation if no litigation is filed; as soon as the controversy leading to anticipated litigation is settled or concluded.

(d) Every City policy body, agency or department shall audio or video every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section ~~7920~~6250 et seq.), and shall not be erased or destroyed, unless the recordings are being transferred into a different format for public access retrieval or archival requirements. The City shall make such audio or video recording available in digital form at a centralized location on the City's web-site ([www.sfgov.org](http://www.sfgov.org)) within ~~72~~seventy two hours of the date of the meeting or hearing in perpetuity and for a period of at least two years after the date of the meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (d) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in subsection (c) Section 67.8.1 and for recording meetings of policy bodies ~~boards and commissions~~ enumerated in the Charter as stated in subsection (b) above.

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

## SEC. 67.15. PUBLIC TESTIMONY.

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

~~to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.~~

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

(c) Time and order of public speakers: A policy body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to:

- (i) ~~regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.~~ Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard ~~at least once for at least up to~~ three minutes ~~per agenda item.~~ ~~Time limits shall be applied uniformly to members of the public wishing to testify.~~
- (ii) ~~If the chair of a meeting finds that a large number of speakers wish to speak on a particular item, the chair may reduce each speaker's time, but not to less than two minutes per speaker. The chair shall announce any modification of the three-minute minimum before public testimony begins on that item. The chair has discretion to provide extra time for those who need accommodation for an interpreter or a disability.~~ ~~Time limits shall be applied uniformly to members of the public wishing to testify.~~
- (iii) Designated speaker or speakers:
  - a. ~~If allowed by the chair, members of the public may, for any item agendized for adoption or discussion by any policy body, authorize a designated speaker or speakers who will present the arguments regarding an issue for adoption for up to 15 minutes, or for a time equal to that allowed to the department or presenting party, excluding the time required to answer questions posed by the body. The designated speaker or speakers and the department or other presenting party for an item to be adopted shall be allowed to speak in summary for five minutes directly prior to the vote by a policy body.~~
  - b. ~~It shall be the responsibility of the designated speaker to file with the clerk, secretary or administrator, a Request to Authorize a Designated Speaker prior to the commencement of an item and to guarantee that at least six members of the public, present and prepared to speak, have designated their allotted speaking time to the requester.~~

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

c. The chair shall, by a show of hands, determine that a designated speaker has the consent of six members of the public who are present and prepared to speak on an issue, and shall announce the designated speaker or speakers.

(iv) Rules for the Order of Speakers: The chair shall allow or accept public testimony in a fair and evenhanded way without manipulation of the order of speakers, absent good cause. Each policy body shall adopt regulations for the order of speaking which shall include but not be limited to the following:

- Speaker cards, when available and submitted, shall be used in the order of submission to designate the order of speakers, except that the chair may alternate "pro" and "con" speakers if they are designated as such on the forms.
- Members of the public who have not submitted speaker cards may form a line to speak and shall be called upon in the order of appearance at the front of the line, except that the chair may allow disabled or elderly and frail members of the public to speak out of turn.
- If a meeting is recessed or adjourned, or the chair has ordered a break, the order of speakers from the previous session shall be maintained.

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

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

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

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

## SEC. 67.16. MINUTES.

(a) The clerk, ~~or secretary or administrator~~ of each policy body board and commission enumerated in the Charter shall record the minutes for each regular and special meeting of that body the board or commission.

(b) The minutes shall state:

- the time the meeting was called to order
- the names of the members attending the meeting
- the time of each member's arrival if after commencement of the meeting
- The time of each member's departure if prior to adjournment of the meeting
- the roll call vote on each matter considered at the meeting
- the time, based on the meeting start-time of 00:00, that the policy body began and ended discussion and action on each item of the agenda
- the time the board or commission began and ended any closed session

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted**

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.38"

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Bulleted + Level: 1 + Aligned at: 0.13" + Indent at: 0.38"

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

- the names of the members and the names, and titles where applicable, of any other persons attending any closed session
- a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, and a brief summary of each person's statement during the public comment period for each agenda item. Any person speaking during a public comment period may supply a brief written summary of their comments to be attached to the minutes and noted in the item, which shall, if no more than 150 words, the comments shall be included in the body of the minutes in the section dealing with that item or matter.
- every action taken by a policy body, with the text of resolutions or ordinances adopted or modified included in the body of the minutes or as an attachment. All actions should refer to a specific agenda item.
- (a) and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.
- (c) The draft minutes and any associated attachments from each meeting shall be posted on the policy body's website and made available for inspection and copying upon request no later than five ten working business days after the meeting. The officially adopted minutes shall be posted on the policy body's website and made available for inspection and copying upon request no later than five ten working business days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this Section shall be made available in alternative formats for persons with disabilities Braille or increased type size.

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

## SEC. 67.17. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES.

Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which they are he or she is a member, except when they have recused themselves on a particular item. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of State or Federal law or of this ordinance. The release of specific factual information made confidential by State or Federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both.

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

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** Bulleted + Level: 1 + Aligned at: 0.13" + Indent at: 0.38"

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.38"

**Commented [LL30]:** We need legal guidance on this – is this correct or not needed here?

## ARTICLE III: PUBLIC INFORMATION AND PUBLIC RECORDS

<a href="#">Sec. 67.20.</a>	Definitions.
<a href="#">Sec. 67.21.</a>	Process for Gaining Access to Public Records; Administrative Appeals.
<a href="#">Sec. 67.21-1.</a>	Policy Regarding Use and Purchase of Computer Systems.
<a href="#">Sec. 67.22.</a>	Release of Oral Public Information.
<a href="#">Sec. 67.23.</a>	Public Review File – Policy Body Communications.
<a href="#">Sec. 67.24.</a>	Public Information that Must Be Disclosed.
<a href="#">Sec. 67.25.</a>	Immediacy of Response.
<a href="#">Sec. 67.26.</a>	Withholding Kept to a Minimum.
<a href="#">Sec. 67.27.</a>	Justification of Withholding.
<a href="#">Sec. 67.28.</a>	Fees for Duplication.
<a href="#">Sec. 67.29.</a>	Index to Records.
<a href="#">Sec. 67.29-1.</a>	Records Survive Transition of Officials.
<a href="#">Sec. 67.29-2.</a>	Internet Access/World Wide Web Minimum Standards.
<a href="#">Sec. 67.29-3.</a>	
<a href="#">Sec. 67.29-4.</a>	Lobbyist On Behalf of the City.
<a href="#">Sec. 67.29-5.</a>	Calendars of Certain Officials.
<a href="#">Sec. 67.29-6.</a>	Sources of Outside Funding.
<a href="#">Sec. 67.29-7.</a>	Correspondence and Records Shall Be Maintained.

### SEC. 67.20. DEFINITIONS.

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

(a) ["Custodian of a public record"](#) shall mean any city employee, contractor functioning as a city employee, commissioner or elected official who has custody of any public record or public information and is subject to the Sunshine Ordinance.

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

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

(d) "Supervisor of Records" shall mean the City Attorney.

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

**NEW SECTION:** [Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act \(Government Code Section 6250 et seq.\) in particulars not addressed by this ordinance and in accordance with the enhanced disclosure requirements provided in this ordinance.](#)

**Commented [LL31]:** Check with our DCAs – are we missing anyone?

Member Anderson says: It makes more sense to designate one person in a department to do this rather than having EVERYONE being subject to these requests. Can we have all requests funneled through a designated "Custodian of Records" for each department?

THIS ^^^ IS A BIG IDEA CHANGE – Do we want to shift responsibility for responding to SO requests to a centralized authority within each department AND resource them AND hold them accountable?

**Commented [LL32]:** This may need to be changed pending discussion – does this role still make sense?

**Formatted:** Font: (Default) Times New Roman, Font color: Custom Color(RGB(33,37,41))

**Formatted:** List Paragraph, Indent: Left: 0.38"

**Commented [LL33]:** This is taken from the text of 67.21 (k)

## SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS.

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

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester by any of the following means: orally or in writing by fax, postal delivery, or e-mail. Departments may offer other portals to receive such requests but must not require their use as a condition of receiving a request for a public record. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(c) A custodian of a public record shall assist a requester in identifying the existence, form, and nature and quantity of any public records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within five business seven days after following receipt of a request, a written statement as to the existence, quantity, form, nature and quantity nature of records relating to a particular subject or set of questions with enough specificity to enable a requester to identify public records or information in order to make a request pursuant to subsection under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or employee staff person.

(d) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b), the person making the request may petition the supervisor of records for a determination whether the record requested is public. The supervisor of records shall inform the petitioner, as soon as possible and within 10 days, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination by the supervisor of records that the record is public, the supervisor of records shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the supervisor of records shall notify the district attorney or the attorney general who shall take whatever measures she or he deems necessary and appropriate to ensure compliance with the provisions of this ordinance.

(e) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b) above or if a petition is denied or not acted on by the supervisor of public records, the person making the request may petition the Sunshine Ordinance Task Force for a determination whether the record requested is public. The Sunshine Ordinance Task Force shall inform the petitioner, as soon as possible and within 2 days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the task force has jurisdiction and whether the record requested, or any part of the record requested,

**Commented [LL34]:** Member Pilpel thinks we should cut this because it repeats what is in 67.27. Member Anderson disagrees and think it's important to repeat this detail.

**Commented [LL35]:** If we're thinking of this as applying to a department-level custodian, this works.

**Commented [LL36]:** Does this belong here or in Article IV in the section for grievances and remedies?

**Commented [LL37]:** Full task force needs to discuss this internally and with City Attorney – what is the City Attorney willing to do and not willing to do? Could this be taken up by the City Ombudsman (currently on the ballot)? Could SOTF take this on if given authority for in camera review?

**Commented [LL38]:** Does this belong here or in Article IV in the section for grievances and remedies?

is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the Sunshine Ordinance Task Force shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Ordinance Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to ~~ensure~~ compliance with the provisions of this ordinance. The Board of Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow the Sunshine Ordinance Task Force to fulfill its duties under this provision. Where requested by the petition, the Sunshine Ordinance Task Force may conduct a public hearing concerning the records request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested.

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

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

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

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

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

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

**Commented [LL39]:** Does this belong here or in Article IV in the section for grievances and remedies?

**Commented [LL40]:** Does this belong here or in Article IV in the section for grievances and remedies?

**Commented [LL41]:** SOR discussion

**Commented [LL42]:** Does this belong here or in Article IV in the section for grievances and remedies?

(l) Inspection and copying of ~~documentary~~ public information stored in electronic form shall be made available to the person requesting the information in any form requested ~~that which~~ is available to or easily generated by the department, its officers or employees, ~~including disk, tape, printout or monitor~~ at a charge no greater than the cost of the media on which it is duplicated. Inspection of ~~documentary~~ public information on a computer monitor need not be allowed where the information sought is necessarily and inseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

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

## **SEC. 67.21-1. POLICY REGARDING USE AND PURCHASE OF COMPUTER SYSTEMS AND OTHER TECHNOLOGY USED TO CREATE OR STORE RECORDS.**

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

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

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

(2) ~~Implementing a system that permits reproduction of e~~Electronic copies of records ~~shall be reproduced~~ in a format that is generally recognized as an industry standard format.

(3) ~~Implementing a system that permits making r~~Records ~~shall be made~~ available ~~free of charge~~ through the ~~publicly accessible Internet largest non-profit, non-proprietary public computer network~~, consistent with the requirement for security of information.

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

## **SEC. 67.22. RELEASE OF ORAL PUBLIC INFORMATION.**

Release of oral public information shall be accomplished as follows:

(a) ~~Each~~<sup>very</sup> department head shall designate a person or persons knowledgeable about the affairs of the department, to provide information, including oral information, to the public about the department's operations, plans, policies and positions. ~~The~~<sup>d</sup>Department heads may designate ~~themselves~~<sup>himself or herself</sup> for this assignment, but in any event shall ~~designate~~<sup>arrange</sup> ~~that~~ an alternate ~~person~~<sup>be available</sup> for this function ~~in~~<sup>during</sup> the absence of the person assigned primary responsibility. If a department has multiple bureaus or divisions, the department ~~head~~ may designate a person or persons ~~to provide this information~~ for each bureau or division ~~to provide this information~~.

(b) The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to ~~any~~<sup>these</sup> members of the public ~~who are~~ not requesting information from a specific person. This section shall not ~~be interpreted to~~ curtail

**Commented [LL43]:** Member Pilpel suggests moving this to the top of the next section. Members Wolfe and Anderson think it should stay here.

See CPRA section and make them parallel: 7922.570 and beyond. CPRA 7922.7 article 3 is new and includes other info to be considered.

Chair LaHood wants to cut "documentary" in first and second sentences. Member Pilpel says we should check with DCAs to make sure this isn't required.

Member Wolfe suggests breaking this into three separate points since the sentences aren't entirely related. Member Pilpel says try to keep parallel with CPRA – need to look at it.

**Commented [LL44]:** Pilpel suggests discussing this section with the Department of Technology before we update wording. Also, the ordinance says nothing about social media, text messaging, other messaging systems or AI – section needs to consider policies on all these.

Member Wolfe: Not every department will listen to Department of Technology. They can request tech or executive orders, but other departments don't need to follow their recommendations. This has been a challenge in SF for decades.

Member Pilpel: need to include language on hardware, software, systems, cloud storage, drones, surveillance, social media, messaging

Member Anderson: We need to lay down a baseline for departments to respond to requests for public records. How they implement it is not up to us.

**Commented [LL45]:** Member Wolfe: Think about the use of these words. Consider acquiring or modifying.

**Commented [LL46]:** Member Wolfe will come up with better and more precise language for this phrase. Do we need to add something about creating a login if you are requesting your own personal medical records, or something like that?

existing informal contacts between city employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of ~~his or her~~ operational duties and confined to accurate information not confidential by law.

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

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

(e) Notwithstanding any other provisions of this ordinance, city public employees shall not be discouraged from ~~or~~ disciplined for or retaliated against as a result of disclosing any information that is public information or a public record to any journalist or any member of the public. Any city public employee who is disciplined for disclosing public information or a public record shall have a cause of action against the City and the supervisor imposing the discipline.

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

**Commented [LL47]:** Run this by our DCAs and maybe a labor attorney?

## **SEC. 67.23. PUBLIC REVIEW FILE – POLICY BODY COMMUNICATIONS.**

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

(b) Communications, as described in subsection (a), sent or received in the last three business days shall be maintained in chronological order in the office of the department head or at a place nearby, clearly designated to the public. After documents have been on file for two full days, they may be removed, and, in the discretion of the board or commission, placed in a monthly chronological file.

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

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

**Commented [LL48]:** Member Pilpel suggest moving this to Article II as a new 67.17-1 (or whatever renumbering requires)

## **SEC. 67.24. PUBLIC INFORMATION THAT MUST BE DISCLOSED.**

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

### **(a) Drafts and Memoranda.**

(1) Except as provided in subparagraph (2), no preliminary draft or department memorandum, whether in printed or electronic form, shall be exempt from disclosure under Government Code Section 6254, Subdivision (a) or any other provision. If such a document is not normally kept on file and would otherwise be disposed of, its factual content is not exempt under Subdivision (a). Only the recommendation of the author may, in such circumstances, be withheld as exempt.

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

### **(b) Litigation Material.**

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

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

(ii) A record previously received or created by a department in the ordinary course of business that was not attorney/client privileged when it was previously received or created;

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

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

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

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

(i) Sex, age and ethnic group;

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

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

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

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

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

(3) The job description of every employment classification.

(4) The exact gross salary and City-paid benefits available to every employee.

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

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

(7) The record of any confirmed misconduct of a public employee involving personal dishonesty, misappropriation of public funds, resources or benefits, unlawful discrimination against another on the basis of status, abuse of authority, or violence, and of any discipline imposed for such misconduct.

**(d) Law Enforcement Information.**

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

(1) The names of juvenile witnesses (whose identities may nevertheless be indicated by substituting a number or alphabetical letter for each individual interviewed);

(2) Personal or otherwise private information related to or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;

(3) The identity of a confidential source;

(4) Secret investigative techniques or procedures;

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

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

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

**(e) Contracts, Bids and Proposals.**

(1) Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the

disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has been completed.

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

(3) During the course of negotiations for:

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

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

(iii) any franchise agreements,

all documents exchanged and related to the position of the parties, including draft contracts, shall be made available for public inspection and copying upon request. In the event that no records are prepared or exchanged during negotiations in the above-mentioned categories, or the records exchanged do not provide a meaningful representation of the respective positions, the City Attorney or City representative familiar with the negotiations shall, upon a written request by a member of the public, prepare written summaries of the respective positions within five working days following the final day of negotiation of any given week. The summaries will be available for public inspection and copying. Upon completion of negotiations, the executed contract, including the dollar amount of said contract, shall be made available for inspection and copying. At the end of each fiscal year, each City department shall provide to the Board of Supervisors a list of all sole source contracts entered into during the past fiscal year. This list shall be made available for inspection and copying as provided for elsewhere in this Article.

(f) **Budgets and Other Financial Information.** Budgets, whether tentative, proposed or adopted, for the City or any of its departments, programs, projects or other categories, and all bills, claims, invoices, vouchers or other records of payment obligations as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is

made, other than payments for social or other services whose records are confidential by law, shall not be exempt from disclosure under any circumstances.

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

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

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

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

## **SEC. 67.25. IMMEDIACY OF RESPONSE.**

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

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

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

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

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

## **SEC. 67.26. WITHHOLDING KEPT TO A MINIMUM.**

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section [67.27](#) of this Article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any City employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

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

## **SEC. 67.27. JUSTIFICATION OF WITHHOLDING.**

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

- (a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
- (b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
- (c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
- (d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

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

## **SEC. 67.28. FEES FOR DUPLICATION.**

- (a) No fee shall be charged for making public records available for review.
- (b) For documents routinely produced in multiple copies for distribution, e.g. meeting agendas and related materials, unless a special fee has been established pursuant to Subdivision (d) of this Section, a fee not to exceed one cent per page may be charged, plus any postage costs.
- (c) For documents assembled and copied to the order of the requester, unless a special fee has been established pursuant to Subdivision (d) of this Section, a fee not to exceed 10 cents per page may be charged, plus any postage.
- (d) A department may establish and charge a higher fee than the one cent presumptive fee in Subdivision (b) and the 10 cent presumptive fee in Subdivision (c) if it prepares and posts an itemized cost analysis establishing that its cost per page impression exceeds 10 cents or one cent, as the case may be. The cost per page impression shall include the following costs: one sheet of paper; one duplication cycle of the copying machine in terms of toner and other specifically identified operation or maintenance factors, excluding electrical power. Any such cost analysis shall identify the manufacturer, model, vendor and maintenance contractor, if any, of the copying machine or machines referred to.
- (e) Video copies of video recorded meetings shall be provided to the public upon request for \$10.00 or less per meeting.

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

## **SEC. 67.29. INDEX TO RECORDS.**

The City and County shall prepare a public records index that identifies the types of information and documents maintained by City and County departments, agencies, boards, commissions, and elected officers. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g. by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. Any such master index shall be reviewed by appropriate staff for accuracy and presented for formal adoption to the administrative official or policy body responsible for the indexed records. The City Administrator shall be responsible for the preparation of this records index. The City Administrator shall report on the progress of the index to the Sunshine Ordinance Task Force on at least a semi-annual basis until the index is completed. Each department, agency, commission and public official shall cooperate with the City Administrator to identify the types of records it maintains, including those documents created by the entity and those documents received in the ordinary course of business and the types of requests that are regularly received. Each department, agency, commission and public official is encouraged to solicit and encourage public participation to develop a meaningful records index. The index shall clearly and meaningfully describe, with as much specificity as practicable, the individual types of records that are prepared or maintained by each department, agency, commission or public official of the City and County. The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any changes in the department, agency, commission or public official's practices or procedures affecting the accuracy of the information provided to the City Administrator shall be recorded by the City Administrator on a periodic basis so as to maintain the integrity and accuracy of the index. The index shall be continuously maintained on the City's World Wide Website and made available at public libraries within the City and County of San Francisco.

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

## **SEC. 67.29-1. RECORDS SURVIVE TRANSITION OF OFFICIALS.**

All documents prepared, received, or maintained by the Office of the Mayor, by any elected city and county official, and by the head of any City or County Department are the property of the City and County of San Francisco. The originals of these documents shall be maintained consistent with the records retention policies of the City and County of San Francisco.

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

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

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

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

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

### **SEC. 67.29-3.**

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

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

### **SEC. 67.29-4. LOBBYIST ON BEHALF OF THE CITY.**

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

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

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

except where such effort is solely for the purpose of protecting the identity and privacy rights of private citizens.

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

## **SEC. 67.29-5. CALENDARS OF CERTAIN OFFICIALS.**

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

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

(c) At any meeting or event with ten or fewer attendees, officials subject to subsection (a) of this Section [67.29-5](#) shall attempt to identify names of attendees present, and the organizations they represent; provided that an official shall not require any attendees to identify themselves, unless the official is aware that those attendees are campaign consultants registered with the Ethics Commission under Campaign and Governmental Conduct Code [Article I, Chapter 5](#); lobbyists registered with the Ethics Commission under Campaign and Governmental Conduct Code [Article II, Chapter 1](#); permit consultants registered with the Ethics Commission under Campaign and Governmental Conduct Code [Article III, Chapter 4](#); Developers of Major Projects, as defined in Campaign and Governmental Conduct Code Section [3.510](#), if the Major Project is discussed at the meeting or event; and employees or representatives of any entity that has received a grant from or entered a contract with any City department within the previous 12 months. The official has no duty to ascertain whether any attendees fall into these categories. Within three business days after a meeting or event subject to this subsection (c), the official shall update the daily calendar to include the names of the attendees and organizations identified by or known to the official.

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

(e) The obligations imposed under subsections (b) and (c), and the obligations imposed upon members of the Board of Supervisors under subsection (a), shall not apply to meetings or events where City business is discussed only incidentally; to unplanned, casual conversations with residents; to campaign-related meetings, events, and appearances; or to meetings or events where all attendees are employees or officers in the official's City department, which for members of the Board of Supervisors shall mean that all attendees are members of the Board of Supervisors,

legislative aides, or employees of the Office of the Clerk of the Board. Officials are not in violation of subsections (b) or (c), and members of the Board of Supervisors are not in violation of subsection (a), if they have made a good faith effort to comply with their obligations thereunder.

(Added by Proposition G, 11/2/99; amended by Ord. [118-15](#), File No. 150156, App. 7/15/2015, Eff. 8/14/2015; Ord. [6-17](#), File No. 161081, App. 1/20/2017, Eff. 2/19/2017)

## **SEC. 67.29-6. SOURCES OF OUTSIDE FUNDING.**

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

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

## **SEC. 67.29-7. CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.**

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

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

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

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