

**COMPARISON OF SUNSHINE ORDINANCES
DRAFT FOR DISCUSSION**

	City and County of San Francisco	City of Oakland
Contact	Mabel Ng, Ethics Commission	Dan Purnell, Ethics Commission
Covers	Meetings Public Information Requests	Meetings Public Information Requests
	Meetings	Meetings
Definition of Meeting	<p>A congregation of a majority of members of the policy body at the same time and place.</p> <p>A series of gatherings of less than a majority of the policy body regarding an item under the City's jurisdiction.</p> <p>Any use of an intermediary or communications that could permit a majority of members of the policy body to become aware of an item and negotiate consensus. (§67.3)</p>	<p>A congregation of a quorum of members of the City Council or board or commission, or congregation of majority of any other body covered by chapter.</p> <p>Any use of direct communication, personal intermediaries or communications media which causes a quorum of members to become aware of an item. (§2.20.030)</p>
Definition of policy body or body covered by ordinance	<p>Board of Supervisors</p> <p>Board or Commission</p> <p>Advisory Commission, committee or body of the City</p> <p>Standing Committee of a policy body (§67.3)</p>	<p>Oakland City Council, Oakland Redevelopment Agency, Board of Port Commissioners and standing committees</p> <p>Boards and Commissions</p> <p>Advisory Committee, task force, or body advising the above, or permanent advisory committee, task force or body advising Mayor or City Manager</p> <p>Standing Committee of any of the above bodies. (§2.20.030)</p> <p>If body transfers its authority to other entity by legislative act, contract, or other agreement, all meetings of body concerning transferred authority must be conducted in accordance with Brown Act. (§2.20.040)</p>

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Applicability to Nonprofits	Separate Municipal Code Chapter requires certain contract provisions with nonprofits receiving more than \$250,000 per year, which require several open meetings and making certain records public. (Chapter 12L)	-----
Applicability to Entity that owns, operates or manages real property	n/a	Contracts between City and any entity which owns, operates, or manages property of City, Agency, or Port must contain requirement that governing board of entity conduct meetings in accordance with requirements or §2.20.040.
Passive Meetings	Defined as certain advisory committees and social, recreational or ceremonial occasions to which a majority of the body is invited. Shall be accessible to individuals upon inquiry, although they need not be posted or provide public comment, among other things. (§67.4)	-----
Open and Public Meetings	All meetings of any policy body shall be open and governed by this ordinance and Brown Act. If inconsistent, whichever allows greater public access shall apply. (§67.5)	All meetings of any body covered by chapter shall be open and public as if covered by Brown Act unless greater public access required by this chapter. (§2.20.050)
Conduct of Business	Time and place of regular meetings established by resolution. Shall be within City and County (with limited exceptions). Meetings of advisory bodies shall be noticed at least 24 hours prior meeting to requesting persons.	Time and place of regular meetings established by resolution. Shall be within City (with limited exceptions), and on weekdays when possible. Sites of meetings may be changed in case of emergency, with notice to media.

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	<p>Special meeting notice shall be delivered at least 24 hours before meeting. Must take place at regular meeting place, unless 15 days' advance notice of change given. (§67.6)</p>	<p>Special meeting notice shall be delivered at least 24 hours before meeting. Must take place at regular meeting place, unless 15 days' advance notice of change given.</p> <p>Meetings may be cancelled by notice at least 2 business days prior to meeting. (§2.20.060)</p>
<p>Agenda Requirements</p>	<p>Agendas shall be posted at least 72 hours before regular meeting, with item descriptions brief, concise and easily understandable. Agendas may refer to explanatory documents posted next to agenda.</p> <p>With certain exceptions, action may not be taken if item is not posted.</p> <p>Agendas shall be made available to speech and hearing impaired persons, and upon request, to sight impaired persons.</p> <p>Each agenda shall contain special notice re rights under the Sunshine Ordinance. (§67.7)</p>	<p>Agendas and related materials shall be posted at least 10 days before a regular meeting.</p> <p>Specifies locations for posting agendas for various bodies.</p> <p>With certain exceptions, action may not be taken if item is not posted. (§2.20.080)</p>
<p>Public Notice Requirements</p>	<p>Public notice to residents re impact on their property or neighborhood area shall be brief and easily understandable.</p> <p>Gives certain requirements as to what notice should contain, including statement that persons unable to attend may submit written comments prior to the meeting. (§67.7-1)</p>	<p>-----</p>

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Agenda Disclosures: Closed Sessions	Gives specific requirements for language of posted agenda for closed session (for license/permit determination, conference with real property negotiator, conference with legal counsel, threat to public services or facilities, conference with collective bargaining negotiator). (§67.8)	Permissive provisions of Govt. Code §54954.5 are mandatory with respect to closed sessions. Actions taken without proper disclosure are subject o invalidation. (§2.20.100)
Agendas and Related Materials	Agendas and other documents on file shall be made available to the public (prior to the meeting). If obtained during the meeting, the records shall be available to public prior to discussion. If obtained during discussion, after the meeting. Fee of one cent per page may be charged. (§67.9)	Agendas and related materials shall be made available to the public. Body may charge agenda subscriber fee. (§2.20.080)
Closed Sessions	Policy Body may hold closed sessions (1) when there is a threat to security or public buildings or to public's right of access (2) to consider appointment, employment, dismissal, evaluation of City employees (3) when evaluating the performance of an individual subject to a Memorandum of Understanding. (§67.10) After advice of legal counsel, and motion and vote in open session to assert privilege, can meet in closed session to discuss pending litigation. (§67.11) Pending litigation defined as after adjudicatory proceeding has been initiated formally, after a point where there is significant exposure to litigation against the City or body is deciding whether to initiate litigation.(§67.11) The policy body must disclose justification for closure on agenda. (§67.13)	Policy Body may hold closed sessions (1) when there is a threat to security or public buildings or to public's right of access (2) to consider appointment, employment, dismissal, evaluation of City employees. (§2.20.130) After advice of legal counsel, and motion and vote in open session to assert privilege, can meet in closed session to discuss pending litigation. (§2.20.130) Pending litigation defined as after adjudicatory proceeding has been initiated formally, after a point where there is significant exposure to litigation against the City or body is deciding whether to initiate litigation. The policy body must disclose justification for closure on agenda.(§2.20.130)

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	<p>Closed sessions may also be held with designated representatives of public employee organizations for purpose of reviewing City's position and instructing its designated representatives. (§67.12)</p>	<p>Closed sessions may also be held with designated representatives of public employee organizations for purpose of reviewing City's position and instructing its designated representatives, as well as on mandatory subjects within the scope of representation of its represented employees. (§2.20.130)</p>
Disclosure of Closed Session Discussions	<p>The policy body may, by motion and vote in open session, choose to disclose to the public any portion of its discussion which is not confidential under federal or state law, the Charter, or non-waivable privilege.</p> <p>Any action taken must be reported. (1) real property negotiation -- as soon as agreement is final (2) litigation -- as soon as approval to initiate is given or immediately after party served (3) settlement. The body cannot preclude release of text of settlement or related documents (4) employee actions -- immediately, naming the employee, action taken and if dismissed, reason for dismissal. Reports can be made orally but written summary must be posted by end of next business day, along with supporting documentation. (§67.14)</p>	<p>Prior to closed session, body shall state in open session the reasons and statutory authority. (§2.20.140)</p> <p>The body shall disclose all portions of discussion not confidential under federal or state law, the Charter, this chapter or nonwaivable privilege. (§2.20.150)</p> <p>Any vote on advisability of action to sell, lease, gift, purchase, or exchange real property in closed session must be followed by discussion in open session prior to final action. (§2.20.100)</p> <p>Any action taken must be reported. (1) real property negotiation -- as soon as agreement is final (2) litigation -- as soon as approval to initiate is given or immediately after party served (3) settlement. The body cannot preclude release of text of settlement or related documents. Reports can be made orally but written summary must be posted by end of next business day, along with supporting documentation. (§2.20.150)</p>
No Barriers to Attendance	<p>Facilities for meetings must be accessible to persons with disabilities, and cannot force members of public to</p>	<p>Facilities for meetings must be accessible to persons with disabilities, and cannot force members of public to</p>

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	make a purchase. Must provide for overflow. Translators and sign language interpreters must be furnished upon request. Notice re sensitivity to chemical based products must be included in agenda. (§67.15)	make a purchase. Must provide for overflow. (§2.20.140)
Tape Recording, Filming and Photos	<p>Any person attending meeting may record with audio or video tape or still or motion picture camera, or broadcast proceedings.</p> <p>Each board and commission shall tape record each meeting. (§67.16)</p>	<p>Any person attending meeting may record with audio or video tape or still or motion picture camera, or broadcast proceedings. (§2.20.160)</p> <p>Each body shall tape record each meeting, and shall keep the tape for 90 days. (§2.20.170)</p>
Public Testimony	<p>Each agenda for regular meetings shall provide opportunity for public comment.</p> <p>Each policy body may adopt regulations limiting amount of time allocated for testimony, but each person wishing to speak on an item must be heard once for up to three minutes. (§67.17)</p>	<p>Each agenda for regular meetings shall provide opportunity for public comment.</p> <p>Each agenda shall provide an opportunity to public to address issue before action taken.</p> <p>Each person may speak once on an item based upon previously adopted time constraints which are uniformly applied.</p> <p>The body may not prohibit public criticism on the basis that performance of an employee is implicated. (§2.20.170)</p>
Minutes	The clerk shall record minutes. Draft minutes shall be available 10 days after meeting. Officially adopted minutes shall be available 10 days after meeting at which minutes are adopted. (§67.18)	The City Clerk and Clerk of RA, Board of Port Commissioners, Planning Commission, and Landmarks Preservation Board shall record minutes. Draft minutes shall be available 5 days after meeting, with official minutes available 10 days after

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		meeting. (§2.20.180)
Public Comment by Members	Every member of a policy body retains full constitutional rights of a citizen to comment on government actions, including actions of the member's own body. (§67.19)	Every member of a policy body retains full constitutional rights of a citizen to comment on government actions, including actions of the member's own body. (§2.20.170)
	Public Information	Public Information
Definition of Public Information	Public records as defined in Govt. Code §6252. Does not include computer software. (§67.20)	Includes "public records" as defined in Govt. Code §6252, whether in documentary or oral form. (§2.20.200)
Release of Documentary Information	Release governed by PRA in particulars not specifically addressed. Public may inspect and copy documents stored in electronic form, but where information sought is intertwined with information not subject to disclosure, inspection on a monitor need not be allowed.	Release governed by PRA in particulars not specifically addressed. Public may inspect and copy documents stored in electronic form, but where information sought is intertwined with information not subject to disclosure, inspection on a monitor need not be allowed. (§2.20.210)
<i>Process for Gaining Access to Public Records; Administrative Appeals (Sec. 67.21)</i>	<i>Sets out detailed process for appeals to Sunshine Task Force and administrative remedy. Superior Court has jurisdiction to order compliance</i>	
<i>Policy Regarding use and purchase of Computer Systems (Sec. 67.21-1)</i>	<i>Policy to use computer technology to reduce cost of public records management. To extend feasible departments using computer systems shall program and design to ensure efficient and economical public access.</i>	
Release of Oral	Each department head shall designate	Each agency director of City and

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Public Information	<p>person to provide information, including oral information to the public about the department. Information shall be provided in a timely fashion. The employee is not required to respond if it would take the employee more than 15 minutes to obtain the information.</p> <p>The public employees may not be discouraged from expressing their opinions, as long as opinion is not represented as that of the department. (§67.22)</p>	<p>department head of Port Dept. shall designate person to provide information, including oral information to the public about the department. Information shall be provided in a timely fashion.</p> <p>The public employees may not be discouraged from expressing their opinions, as long as opinion is not represented as that of the department. (§2.20.200)</p>
Public Review File	<p>Any communication received by a quorum of a policy body concerning a matter calendared within the previous or next 30 days shall be maintained in a file accessible to the public. Communications received within past 3 days shall be maintained in chronological order in the office of the department head. (§67.23)</p>	<p>The clerk of each body shall maintain a file containing any communication received by a quorum of a policy body concerning a matter calendared within the previous or next 30 days shall be maintained in a file accessible to the public. Communications received within past 3 days shall be maintained in chronological order in the office of the department head. (§2.20.210)</p>
Non-exempt Public Information	<p>Notwithstanding legal discretion under PRA:</p> <p>If a draft or a memo is normally kept on file, it must be disclosed.</p> <p>Draft versions of agreements must be made available for public review 10 days prior to presentation for approval.</p> <p>Litigation material: pre-litigation claims, as well as records of communications between parties (after litigation is settled), must be disclosed.</p> <p>Personnel information: job pool</p>	<p>Notwithstanding legal discretion under PRA:</p> <p>If a draft or a memo is normally kept on file, it must be disclosed. Preliminary drafts concerning matters subject to negotiation are not subject to disclosure until final action has been taken.</p> <p>Draft versions of agreements must be made available for public review after final action has been taken.</p> <p>Litigation material: records of communications between parties (after</p>

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	<p>characteristics, professional biography of any employee, job descriptions, exact salary and benefits, and memorandums of understanding with employee groups must be disclosed.</p> <p>Law enforcement information: after the prospect of enforcement action has been terminated, all records (with certain facts withheld) pertaining to investigation, arrest or law enforcement activity must be disclosed.</p> <p>Contracts, bids and proposals: contracts, bids and responses to RFP's must be opened immediately after a contract has been awarded. All bidders and contractors must be notified that this information will be released.</p> <p>Budgets (tentative, proposed and adopted) and all invoices and records of payment must be released. (§67.24)</p>	<p>litigation is settled), must be disclosed.</p> <p>Personnel information: job pool characteristics, professional biography of any employee, job descriptions, exact salary and benefits, and memorandums of understanding with employee groups must be disclosed.</p> <p>Law enforcement information: after the prospect of enforcement action has been terminated, all records (with certain facts withheld) pertaining to investigation, arrest or law enforcement activity must be disclosed.</p> <p>Contracts, bids and proposals: contracts, bids and responses to RFP's must be opened immediately following the bid closing. All bidders and contractors must be notified that this information will be released.</p> <p>Budgets (tentative, proposed and adopted) and all invoices and records of payment must be released. (§2.20.220)</p>
Confidentiality Waiver Request	-----	-----
Immediacy of Response	<p>A written request for non-exempt information must be satisfied no later than the close of business on the day following the request. "Immediate Disclosure Request" must be written across the top of the request.</p> <p>If information requested is voluminous or located in a remote facility, this may warrant an extension of 10 days as provided in Govt. Code, the requester shall be notified by the close of business on the day following the request.</p>	<p>A written request for non-exempt information must be satisfied no later than the close of business on the day following the request unless the dept. head advises in writing that it will be answered by a specific future date.</p> <p>If information requested is voluminous or located in a remote facility, this may warrant an extension of 10 days as provided in Govt. Code, the requester shall be notified by the close of business within three business days</p>

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	on the day following the request. Person requesting need not state reason. (§67.25)	following the request. (§2.20.230)
Minimum Withholding	No record shall be withheld in its entirety unless all information is exempt. Exempt information shall be masked, deleted or otherwise segregated. (§67.26)	No record shall be withheld in its entirety unless all information is exempt. Exempt information shall be masked, deleted or otherwise segregated. (§2.20.250)
Justification of Withholding	Any withholding of information shall be justified in writing. A withholding under a permissive exemption in the PRA shall cite the authority and describe how the public interest would be harmed by disclosure. If release is prohibited by law, statutory authority must be cited. If disclosure would incur liability, statutory or case law must be cited. (§67.27)	Any withholding of information shall be justified in writing. A withholding under a permissive exemption in the PRA shall cite the authority and describe how the public interest would be harmed by disclosure. If release is prohibited by law, statutory authority must be cited. If disclosure would incur liability, statutory or case law must be cited. (§2.20.250)
Fees	No fee for making records available. 1 cent per page for documents routinely produced for distribution. 10 cents per page for documents assembled and copied for requester. (§67.28)	No fee for making records available or for documents such as meeting agendas 20 or fewer pages. (§2.20.260)
Index to Records	Each department may cooperate with a voluntary effort by an individual or organization to compile a master index to the records it maintains. (§67.29)	-----
	Implementation	Implementation
Task Force or Enforcing Entity	Task Force consists of 11 members from various categories 2-year terms	Public Ethics Commission to develop goals and procedures and administrative process of review and enforcement. (§2.20.270)

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	<p>Advises Board of Supervisors, sets goals on implementation of chapter.</p> <p>Possesses powers that Board of Sup. May confer by ordinance. (§67.30)</p>	<p>enforcement. (§2.20.270)</p>
Administration	<p>Mayor shall administer for departments under Mayor's control and Task Force. Elected officers administer for departments under their control. (§67.31)</p>	<p>City Manager administers implementation for departments under control. Mayor administers for Mayor's Office and Boards and Commissions. City Attorney administers for City Attorney's Office. City Attorney is attorney for Public Ethics Commission. (§2.20.280)</p>
Enforcement	<p>-----</p>	<p>Proceedings for injunctive or declaratory relief may begin on conclusion of administrative review. Court may award attorney fees to plaintiff. (§2.20.280)</p>
Reporting Requirements	<p>Task Force shall report to Board at least once annually on problems. (§67.30)</p>	<p>Public Ethics Commission reports to City Council at least once annually. (§2.20.270)</p>
<i>Additional Closed Session Requirements (Sec. 67.8-1)</i>	<p><i>All closed sessions shall be audio recorded or audio and video recording in their entirety.</i></p> <p><i>Each agenda item for policy body involving existing litigation shall identify the court, case number and the date the case was filed.</i></p>	

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<i>Index to Records (Sec 67.29)</i>	<i>Requires preparation of public records index that lds types of information and documents maintained by departments, agencies, boards, commissions and elected officers.</i>	
<i>Records Survive Transition of Officials (Sec 67.29-1)</i>	<i>Requires documents prepared, received or maintained by officials to be maintained consistent with the records retention policies.</i>	
<i>Internet Access/ minimum standards (Sec 67.29-2)</i>	<i>Departments encourage to make information publicly available through its web site.</i>	
<i>Calendars of Certain Officials (Sec. 67.29-5)</i>	<i>Mayor, City Attorney and every department head required to keep a daily calendar, as a public record, recording the time and place of each meeting or event attended with the exception of purely personal or social events at which no city business is discussed and which do not take place at city offices or in offices or residences of people who do substantial business with or otherwise substantially financially affected by actions of the city. Calendars must be available to any requester 3 business days after the calendar entry date.</i>	
<i>Correspondence and Records shall be maintained (Sec. 67-29-7)</i>	<i>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, emails, drafts, memorandum, invoices, reports and proposals and shall disclose all records in accordance with the ordinance.</i>	