

1 [Board of Supervisors to respond on behalf of City departments to orders for the production of
2 City records made under designated state and federal laws.]

3 **Ordinance amending the San Francisco Administrative Code, by adding Section 2.20,**
4 **to authorize the Board of Supervisors to identify as “watch laws” those state or federal**
5 **laws calling for the disclosure of information or records held by the City, where**
6 **disclosure could violate of the rights of individuals under the State or Federal**
7 **Constitutions, and to authorize the Board to respond on behalf of City departments to**
8 **orders for the production of City information or records made under such watch laws.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are *strikethrough italics Times New Roman*.
11 Board amendment additions are double underlined.
12 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The San Francisco Administrative Code is hereby amended by adding
14 Section 2.20, to read as follows:

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16 **ART. IV: BOARD RESPONSE TO WATCH LAW REQUESTS**

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18 **SEC. 2.20. DESIGNATION OF WATCH LAWS; BOARD OF SUPERVISORS TO RESPOND ON**
19 **BEHALF OF CITY DEPARTMENTS.**

20 **(a) Designation of Watch Laws; Watch Law Orders. Under Charter Section 16.124, the**
21 **Board of Supervisors may, by resolution, designate as a “watch law” any state or federal law or**
22 **regulation that calls for, authorizes, or requires the production by any City officer, employee, agency,**
23 **department or office of information, records, or other tangible things held by the City, where disclosure**
24 **could violate the rights of any individuals under the State or Federal Constitutions. An order or**
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1 request for the production of information, records or other tangible things held by the City made
2 pursuant to a watch law designated under this subsection shall be referred to as a “watch law order.”

3 (b) **Board of Supervisors to Respond on Behalf of City Departments.** The Board of
4 Supervisors shall respond on behalf of the City and County of San Francisco to all watch law orders
5 served on the City and County. No officer, employee, agency, department, or office of the City and
6 County shall respond to a watch law order without the prior approval by resolution of the Board of
7 Supervisors.

8 (c) **Duties of City Officers, Employees, and Departments.** Any officer, employee, agency,
9 department, or office of the City and County receiving a watch law order shall within 24 hours transmit
10 the order to the Clerk of the Board of Supervisors, along with a specific description of the type, nature,
11 and extent of any information, records or other tangible things held by the officer, employee, agency,
12 department, or office which are responsive to the order. The information, records or other tangible
13 things themselves shall not be sent to the Board of Supervisors unless and until specifically requested
14 by the Board.

15 (d) **Consideration by the Board of Supervisors.** The Board of Supervisors shall consult with
16 the City Attorney in determining whether the production sought by a watch law order would violate the
17 constitutional rights of any individuals and in deciding on an appropriate response to the order. The
18 records, proceedings, and decisions of the Board of Supervisors in connection with a watch law order
19 shall be kept confidential where required by state or federal law. To the extent federal or state law
20 would prohibit public disclosure of information that the Board of Supervisors needs to discuss in order
21 to discharge its powers under this Section, the Board may meet in closed session for the limited
22 purpose of discussing that information. Unless prohibited by federal or state law, the Board shall take
23 all actions to approve or deny a watch law order in public.

24 (e) **Procedure.** Upon receipt of a watch law order, the Clerk of the Board of Supervisors shall
25 immediately deliver a copy of the order to the chair of the Rules Committee. The Clerk shall at the

1 same time also deliver a copy of the order to the deputy city attorney designated by the City Attorney
2 for these purposes.

3 The Clerk shall prepare an item consisting of a resolution complying with the order and a
4 resolution rejecting, in whole or in part, the order. The item shall be deemed introduced by the
5 President of the Board as of the date the order is received by the Clerk.

6 The Clerk shall place the item on the agenda for the next Rules Committee meeting. If the order
7 contains a deadline for compliance that would occur prior to the next regularly-scheduled Rules
8 Committee meeting, the chair of the Rules Committee shall schedule a special meeting of the committee
9 sufficient to meet the deadline. If the Rules Committee cannot meet in time to meet the deadline for
10 response, the President of the Board may refer the item to another committee.

11 (f) **Annual Report.** The Clerk of the Board of Supervisors shall prepare an annual report on
12 all watch law orders received by the Board during the prior fiscal year. The report shall identify: the
13 information, records, or other tangible things sought in each such order; the law under which the order
14 was made; the officer, employee, agency, department, or office of the City and County to whom the
15 order was initially directed; and, the action taken by the Board of Supervisors in response to the order.
16 The report shall be kept confidential to the extent required by state or federal law.

17 (g) **Responsibilities of the Clerk of the Board.** Any reference to the Clerk of the Board of
18 Supervisors in this ordinance shall include the Clerk's designee. Notwithstanding the provisions of this
19 section, the individual officers, departments, and agencies of the City shall continue to be responsible
20 for maintaining their own records in compliance with all applicable public records and records
21 retention laws. The Clerk of the Board's responsibilities shall be limited to carrying out the procedures
22 specified in this section, based upon the information and responses provided by individual officers,
23 departments, and agencies.

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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
THOMAS J. OWEN
Deputy City Attorney