

REVISED LEGISLATIVE DIGEST

(7/9/2018, Amended in Committee)

[Charter Amendment - Privacy First Policy]

Describing and setting forth a proposal to the voters at an election to be held November 6, 2018, to amend the Charter of the City and County of San Francisco to adopt a Privacy First Policy.

Existing Law

While federal, state, and City law provide some protections for privacy in the collection, storage, sharing, and use of Personal Information, there is no overarching set of privacy-protective principles in City law.

Amendments to Current Law

The Charter amendment establishes a Privacy First Policy to provide guidance to the City when considering the adoption of privacy-protective laws, regulations, policies, and practices for the City; the City's contractors, lessees, and grantees; third parties receiving permits, licenses, or other entitlements from the City; and persons (including businesses and other entities) within the regulatory authority of the City.

These principles constitute the Privacy First Policy:

1. Engage with and inform those likely to be impacted by the collection, storage, sharing, or use of their Personal Information prior to authorizing and prior to any change regarding the collection, storage, sharing, or use of their Personal Information.
2. Ensure that Personal Information that is collected, stored, shared, or used is done so pursuant to a lawful and authorized purpose.
3. Allow individuals to access Personal Information about themselves that has been collected, and provide access and tools to correct any inaccurate Personal Information.
4. Solicit informed consent to the collection, storage, sharing, or use of Personal Information, and provide alternative and equal access to goods and services for those who deny or revoke consent.
5. Discourage the collection, storage, sharing, or use of Personal Information, including potentially sensitive demographic information, unless necessary to accomplish a lawful, authorized purpose.

6. De-identify data sets, when collected for research and other analytical purposes, to remove the ability to connect personal characteristics with specific individuals, and implement technical safeguards to prevent re-identification of information.
7. Adopt and make public or cause to be made public policies and practices to respond to requests or demands for Personal Information from governmental entities.
8. Allow individuals to move and organize in the City without being tracked or located in a manner that subjects them to unconsented collection of their Personal Information.
9. Evaluate, anticipate, and mitigate actual or potential bias or inaccuracy in the collection, storage, sharing, or use of Personal Information.
10. Retain Personal Information for only as long as necessary to accomplish a lawful and authorized purpose.
11. Secure Personal Information against unauthorized or unlawful processing or disclosure; unwarranted access, manipulation or misuse; and accidental loss, destruction, or damage.

For purposes of the Privacy First Policy, Personal Information is “any information that identifies, relates to, describes, or is capable of being associated with, a particular individual. Personal Information includes, but is not limited to, an individual’s name, signature, social security number, physical characteristics or description, address, geolocation data, IP address, telephone number, passport number, driver’s license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, genetic and biometric data, or health insurance information.”

The Charter amendment authorizes all parts of City government (such as boards, commissions, departments, other entities, and officials) to implement the Privacy First Policy. It further authorizes the Board of Supervisors to impose requirements implementing the Privacy First Policy on all parts of City government.

The Privacy First Policy is not in itself binding or self-executing. But the Charter amendment requires the City Administrator, by May 29, 2019, to propose an ordinance establishing criteria and rules to implement the Privacy First Policy. The City Administrator’s proposed ordinance would neither limit the legislative authority of the Board of Supervisors nor require the Board to adopt legislation. The Charter amendment also requires the City Administrator, no less frequently than every three years following submission of the proposed ordinance, to submit a report describing the City’s implementation of the Privacy First Policy and new dimensions of collecting, storing, sharing, and using Personal Information that may present a threat to

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privacy, and making recommendations as appropriate, including regarding adoption or amendment of ordinances in furtherance of the Privacy First Policy.

The Charter amendment may not be implemented in a manner that is inconsistent with voter-approved ordinances regarding privacy, open meetings, or public records. It permits the Board of Supervisors by ordinance to amend such voter-approved ordinances if such amendment is not inconsistent with the purpose or intent of the voter-approved ordinances.

The Charter amendment does not apply to the extent, if any, its application would be preempted by federal or state law.

Background Information

This Legislative Digest accompanies the Second Draft of the Charter amendment, as presented in committee on July 9, 2018.

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