

BE IT ORDAINED BY THE [_____] AS FOLLOWS:

Section 1. The Council finds that technological advances have provided new equipment that can be used for surveillance purposes. The Council finds that while surveillance equipment may help promote public safety in some contexts, the benefits of such technologies should be balanced with the need to protect privacy and anonymity, free speech and association, and equal protection. The Council finds that the [City/County] should be judicious in its use of surveillance equipment to avoid creating a constant and pervasive surveillance presence in public life. The Council also finds that public review and oversight of new surveillance technologies is fundamental to minimizing the risks posed by such technologies. The Council therefore finds that all [City/County] departments should seek approval from the Council prior to the acquisition and use of certain surveillance equipment and services and should also propose specific protocols for Council review that address how such equipment will be used and how the data it produces will be retained, stored and accessed.

Section 2. The following definitions apply to this Chapter:

(1) "Data management protocols" means procedures governing how data collected by surveillance equipment and services will be retained, stored, indexed, accessed and deleted. Information comprising data management protocols includes, at a minimum, the information required in Section 6.

(2) "Operational protocols" means procedures governing how and when surveillance equipment and services may be used and by whom. Information comprising operational protocols includes, at a minimum, the information required in Section 5.

(3) "Surveillance equipment or services" means:

(a) Electronic, mechanical or other devices capable of systematically collecting, storing and transmitting data, including information, images, videos, photographs or audio, used by or at the direction of a [City/County] department for the purposes of monitoring, observing or analyzing individuals or groups of individuals regardless of whether such data is obscured, de-identified or anonymized before or after collection.

(b) Services provided to a [City/County] department by a third party that result in the acquisition of data, including information, images, video, photographs or audio, by the [City/County] department to be used for the purpose of monitoring, observing or analyzing individuals or groups of individuals regardless of whether such data is obscured, de-identified or anonymized before or after acquisition.

Section 3. Any [City/County] department intending to acquire new surveillance equipment or services shall obtain Council approval via ordinance prior to acquisition. A department seeking to acquire surveillance equipment or services shall submit to the Council a detailed statement of the type of surveillance equipment or services to be acquired along with a set of operational protocols and data management protocols applicable to the use of such surveillance technology or services.

Section 4. Any [City/County] department intending to (a) use previously acquired surveillance equipment or services in a manner or for a purpose not previously disclosed in the operational protocols for such surveillance equipment or services or (b) use previously acquired electronic equipment or third party services in a manner that places such equipment or services within the definition of surveillance equipment or services, shall obtain Council approval via ordinance prior to beginning the new use. A department seeking approval for a new use shall submit to the Council a statement of the new use and a new set of operational protocols and data management protocols for such new use.

Section 5. In requesting approval for the acquisition or new use of surveillance equipment or services, [City/County] departments shall include proposed operational protocols containing the following information for the Council's consideration, along with any other information specifically requested by the Council:

- (1) A clear statement describing the purpose and use of the proposed surveillance equipment or services.
- (2) The intended specific location of the surveillance equipment if affixed to a building or other structure, or the boundaries of the area where mobile surveillance equipment or services will be used.
- (3) How and when a department proposes to use the surveillance equipment or services, such as whether the equipment or services will be operated continuously or used only under specific circumstances, and whether the equipment or services will be installed or used permanently or temporarily.
- (4) A description of the privacy and anonymity rights affected and a mitigation plan describing how the department's use of the surveillance equipment or services will be regulated to protect privacy, anonymity, and limit the risk of potential abuse.
- (5) The extent to which activity will be monitored in real time as data is being captured and the extent to which monitoring of historically recorded information will occur.
- (6) A public outreach plan for each community in which the department intends to use the surveillance equipment or services that provides public disclosure of the new surveillance equipment or the terms of the services agreement and includes opportunity for public meetings, a public comment period, and written agency response to these comments.
- (7) If a department intends to share access to the surveillance equipment or services or the collected data with any other government department or entity, it shall set forth which departments or entities are approved for sharing, how such sharing is required for the stated purpose and use of the surveillance equipment or services and the process by which future sharing agreements will be approved by the department and by the Council.
- (8) If more than one department will have access to the surveillance equipment or services or collected data, a lead department shall be identified that is responsible for maintaining the equipment or services relationship and ensuring compliance with all related protocols. If the lead department intends to delegate any related responsibilities to other departments or [City/County] personnel, these responsibilities and associated departments and personnel shall be clearly identified.
- (9) A plan for maintaining the security and integrity of the surveillance equipment, including an identification of the parties or personnel responsible for the installation or application of hardware and/or software updates and patches, and the procedures by which the lead department will present any substantive changes in the functionality to the Council for approval.
- (10) A description of the training to be provided to operators or users of the surveillance equipment or services.

Section 6. In requesting approval for acquisition or new use of surveillance equipment or services, [City/County] departments shall include proposed data management protocols containing the following information for the Council's consideration, along with any other information specifically requested by the Council:

- (1) The time period for which any data collected by surveillance equipment or services will be retained.
- (2) A description of how and when the data will be retained.
- (3) The methods for storing collected data, including how the data is to be labeled or indexed. Such methods must allow for the department personnel and the [City/County] Auditor's Office to

readily search and locate specific data that is collected and determine with certainty that data was properly deleted, consistent with applicable law.

(4) A description of who will have access to the data captured or provided by the surveillance equipment or service, including who will be responsible for authorizing access, who will be allowed to request access, and acceptable reasons for requesting access.

(5) A viewer's log or other comparable method to track viewings of any data captured, collected or provided by the surveillance equipment or services, including the date, time, the individuals involved, and the reason(s) for viewing the records.

(6) A description of the individuals who have authority to obtain copies of the records and how the existence and location of copies will be tracked.

(7) A general description of the system that will be used to store the data.

(8) A description of the unit or individuals responsible for ensuring compliance with Sections 5 and 6 and when and how compliance audits will be conducted.

Section 7. Each [City/County] department operating or using surveillance equipment or services prior to the effective date of this ordinance shall propose written operational protocols consistent with Section 5 and written data management protocols consistent with Section 6 no later than sixty days following the effective date of this ordinance for Council review and approval by ordinance. If Council has not approved or requested modification to the proposed operational and data management protocols within sixty days of their submission to the Council, the [City/County] department shall cease their use of the surveillance equipment or services.

Section 8. Following one year after the effective date of this ordinance, the Council will review its implementation as it applies to [City/County] department use of surveillance equipment or services.

Section 9. Not later than January 15 of each year, the Council shall release a public report containing the following information for the proceeding calendar year:

- (1) The number of requests for approval submitted to the Council under this ordinance for the acquisition or new use of surveillance equipment or services.
- (2) The number of times the Council approved requests submitted under this ordinance for the acquisition or new use of surveillance equipment or services.
- (3) The number of times the Council rejected requests submitted under this ordinance for the acquisition or new use of surveillance equipment or services.
- (4) The number of times the Council requested changes be made to operational protocols or data management protocols before approving the acquisition or new use of surveillance equipment or services.

Section 10. Any information obtained using surveillance equipment or services that was not approved in accordance with this ordinance must be deleted as soon as possible, and may not be used, copied, or disclosed for any purpose.

Section 11. Any person who violates the provisions of this ordinance shall be subject to legal action for damages or equitable relief, to be brought by any other person claiming that a violation of this statute has injured his business, his person, or his reputation. A person so injured shall be entitled to actual damages, including mental pain and suffering endured by him on account of violation of the provisions of this chapter, and a reasonable attorney's fee and other costs of litigation.

Section 12. Any [City/County] personnel who violates policies contained in this ordinance, or any implementing rule or regulation, may be subject to disciplinary proceedings and punishment. For

[City/County] personnel who are represented under the terms of a collective bargaining agreement, this section prevails except where it conflicts with the collective bargaining agreement, any memorandum of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.