

1 [Administrative Code - Surveillance Technology Ordinance Amendments]

2

3 **Ordinance amending the Administrative Code to revise the Surveillance Technology**
 4 **Ordinance by, among other things, reducing administrative burdens associated with**
 5 **reporting requirements; clarifying certain exceptions to the definition of “Surveillance**
 6 **Technology;” transferring the responsibility of creating or amending a Surveillance**
 7 **Technology Policy from the Committee on Information Technology (COIT) to the**
 8 **departments using such technology; and adding a reporting requirement for COIT**
 9 **regarding existing Surveillance Technology still awaiting approval of a Surveillance**
 10 **Technology Policy.**

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 12 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 13 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 14 **Board amendment additions** are in double-underlined Arial font.
 15 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 16 **Asterisks (* * * *)** indicate the omission of unchanged Code
 17 subsections or parts of tables.

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

19 Section 1. Chapter 19B of the Administrative Code is hereby amended by revising
 20 Sections 19B.1, 19B.2, 19B.3, 19B.5, and 19B.6, to read as follows:

21 **SEC. 19B.1. DEFINITIONS.**

22 “Annual Surveillance Report” means a written report that includes all of the following:

23 (1) A general description of how the Surveillance Technology was used;

24 (2) ~~A general description of whether and how often data acquired through the use of the~~
 25 ~~Surveillance Technology item was shared with outside entities, the name of any recipient outside entity,~~
 the type(s) of data disclosed, under what legal standard(s) the data was disclosed, and the justification

1 ~~for the disclosure(s);~~

2 ~~(3)–A summary of complaints or concerns from the public about the Surveillance~~
3 ~~Technology item, including complaints or concerns regarding the receipt of information from Face~~
4 ~~Recognition Technology;~~

5 ~~(34) The aggregate results of any internal audits required by the Surveillance Technology~~
6 ~~Policy, any general, aggregate information about violations of the Surveillance Technology Policy, and~~
7 ~~a general description of any actions taken in response; A summary of any violations of the Surveillance~~
8 ~~Technology Policy, including a description of each violation, the location of each violation, and the~~
9 ~~date of each violation;~~

10 ~~(45) Information, including crime statistics, which help the Board of Supervisors~~
11 ~~assess whether the Surveillance Technology has been effective at achieving its identified~~
12 ~~purposes; and~~

13 ~~(6) Aggregate statistics and information about any Surveillance Technology related to Public~~
14 ~~Records Act requests;~~

15 ~~(7) Total annual costs for the Surveillance Technology, including personnel and other ongoing~~
16 ~~costs, and what source of funding will fund the Surveillance Technology in the coming year;~~

17 ~~(58) Any requested modifications to the Surveillance Technology Policy and a detailed~~
18 ~~basis for the request; ;~~

19 ~~(9) Where applicable, a general breakdown of what physical objects the Surveillance~~
20 ~~Technology hardware was installed upon, using general descriptive terms; for Surveillance Technology~~
21 ~~software, a general breakdown of what data sources the Surveillance Technology was applied to;~~

22 ~~(10) A description of products and services acquired or used in the preceding year that are not~~
23 ~~already included in the Surveillance Technology Policy, including manufacturer and model numbers,~~
24 ~~and the identity of any entity or individual that provides to the Department services or equipment~~
25 ~~essential to the functioning or effectiveness of the Surveillance Technology; and~~

1 ~~(H) A summary of all requests for Board of Supervisors' approval for a Surveillance~~
2 ~~Technology Policy ordinance.~~

3 An Annual Surveillance Report shall not contain the specific records that a Surveillance
4 Technology item collects, stores, exchanges, or analyzes and/or information protected,
5 restricted, and/or sealed pursuant to State and/or federal laws, including information exempt
6 from disclosure under the California Public Records Act.

7 * * * *

8 “COIT” means the Committee on Information Technology, including any subcommittee
9 designated by COIT.

10 * * * *

11 “Personal communication device” means a cellular telephone that has not been modified
12 beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet or
13 similar wireless two-way communications and/or portable Internet accessing device, whether procured
14 or subsidized by a City entity or personally owned, that is used in the regular course of conducting City
15 business.

16 “Protected Class” means a class of persons with shared characteristics based on sex, race,
17 color, religion, ancestry, national origin, disability, medical condition, genetic information, marital
18 status, gender identity, gender expression, or sexual orientation, or any other class protected under the
19 California Unruh Civil Rights Act.

20 “Surveillance Impact Report” means a written report that includes at a minimum the
21 following:

22 (1) Information describing the Surveillance Technology and how it works, ~~including~~
23 ~~product descriptions from manufacturers;~~

24 (2) ~~Information on the proposed purpose(s) for the Surveillance Technology;~~

25 ~~(3) If applicable, the general location(s) it may be deployed and crime statistics for any~~

1 location(s);

2 (34) An assessment identifying any potential impact on civil liberties and civil rights
3 and discussing any plans to safeguard the rights of the public;

4 (45) The fiscal costs for the Surveillance Technology, including initial purchase,
5 personnel and other ongoing costs, and any current or potential sources of funding;

6 (56) Whether use or maintenance of the technology will require data gathered by the
7 technology to be handled or stored by a third-party vendor on an ongoing basis; and

8 (67) A summary of the experience, if any, other governmental entities have had with
9 the proposed technology, including information about its effectiveness and any known
10 adverse information about the technology such as unanticipated costs, failures, or civil rights
11 and civil liberties abuses.

12 ~~“Personal communication device” means a cellular telephone that has not been modified~~
13 ~~beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet or~~
14 ~~similar wireless two-way communications and/or portable Internet accessing devices, whether~~
15 ~~procured or subsidized by a City entity or personally owned, that is used in the regular course of~~
16 ~~conducting City business.~~

17 ~~“Protected Class” means a class of persons with shared characteristics based on sex, race,~~
18 ~~color, religion, ancestry, national origin, disability, medical condition, genetic information, marital~~
19 ~~status, gender identity, gender expression, or sexual orientation, or any other class protected under the~~
20 ~~California Unruh Civil Rights Act.~~

21 “Surveillance Technology” means any software, electronic device, system utilizing an
22 electronic device, or similar device used, designed, or primarily intended to collect, retain,
23 process, or share audio, electronic, visual, location, thermal, biometric, olfactory, or similar
24 information specifically associated with, or capable of being associated with, any individual or
25 group. Surveillance Technology” includes but is not limited to the following: international

1 mobile subscriber identity (IMSI) catchers and other cell site simulators; automatic license
2 plate readers; electric toll readers; closed-circuit television cameras; gunshot detection
3 hardware and services; video and audio monitoring and/or recording technology, such as
4 surveillance cameras, wide-angle cameras, and wearable body cameras; mobile DNA capture
5 technology; biometric software or technology, including facial, voice, iris, and gait-recognition
6 software and databases; software designed to monitor social media services; x-ray vans;
7 software designed to forecast criminal activity or criminality; radio-frequency I.D. (RFID)
8 scanners; and tools, including software and hardware, used to gain unauthorized access to a
9 computer, computer service, or computer network. Surveillance Technology does not include
10 the following devices, hardware, or software:

11 * * * *

12 (2) City databases and enterprise systems that contain information kept in the
13 ordinary course of City business, including, but not limited to, human resource, permit,
14 license, and business records essential to the Department's customary operations;

15 * * * *

16 (13) Police department computer aided dispatch (CAD), records/case management,
17 Live Scan, booking, Department of Motor Vehicles, California Law Enforcement
18 Telecommunications Systems (CLETS), 9-1-1 and related dispatch and operation or
19 departmental or interdepartmental emergency services systems;

20 (14) Police department early warning systems; ~~and~~

21 (15) Computers, software, hardware, or devices intended to be used solely to monitor
22 the safety and security of City facilities and City vehicles, not generally accessible to the
23 public.;

24 (16) Information acquired voluntarily from an individual who was given an opportunity to
25 decline to provide the information, that the Department requires in order to provide a City benefit or

1 service, and where the information will not be shared by the Department or used for any other purpose;

2 and

3 (17) Technology that requires Board of Supervisors approval under State law.

4 * * * *

5
6 **SEC. 19B.2. BOARD OF SUPERVISORS APPROVAL OF SURVEILLANCE**
7 **TECHNOLOGY POLICY.**

8 (a) Except as stated in subsection (c), and in accordance with the procedures set forth
9 in subsection (b), a Department must obtain Board of Supervisors approval by ordinance of a
10 Surveillance Technology Policy under which the Department will acquire and use Surveillance
11 Technology, prior to engaging in any of the following:

12 (1) Seeking funds for Surveillance Technology, including but not limited to applying for
13 a grant, or accepting state or federal funds, or public or private in-kind or other donations;

14 (2) Acquiring or borrowing new Surveillance Technology, including but not limited to
15 acquiring Surveillance Technology without the exchange of monies or other consideration;

16 (3) Using new or existing Surveillance Technology for a purpose, in a manner, or in a
17 location not specified in a Surveillance Technology Policy ordinance approved by the Board in
18 accordance with this Chapter 19B;

19 (4) Entering into agreement with a non-City entity to acquire, share, or otherwise use
20 Surveillance Technology; or

21 (5) Entering into an oral or written agreement under which a non-City entity or
22 individual regularly provides the Department with data or information acquired through the
23 entity's use of Surveillance Technology.

24 (b) The Board of Supervisors may approve a Surveillance Technology Policy
25 ordinance under subsection (a) only under the following circumstances:

1 (1) The Department seeking Board approval under subsection (a) first creates submits
2 ~~to COIT~~ a Surveillance Technology Policy and Surveillance Impact Report for the Surveillance
3 Technology to be acquired or used; and

4 (2) ~~Based on the Surveillance Impact Report submitted by the Department, COIT develops a~~
5 ~~Surveillance Technology Policy for the Surveillance Technology to be acquired or used;~~

6 (3) ~~At a public hearing at which COIT considers the Surveillance Technology Policy,~~
7 COIT recommends that the Board of Supervisors adopt, adopt with modifications, or decline
8 to adopt the Surveillance Technology Policy for the Surveillance Technology to be acquired or
9 used.

10 * * * *

11 (l) Nothing in this Chapter 19B shall prohibit, restrict, or interfere with a Department's
12 use of Surveillance Technology to conduct internal investigations involving City employees,
13 contractors, and volunteers, or the City Attorney's ability to receive or use, in preparation for
14 or in civil or administrative proceedings, information from Surveillance Technology (excluding
15 Face Recognition Technology to the extent prohibited under Section 19B.2-(d)(1) that any
16 City agency, department, or official gathers or that any other non-City entity or person gathers.

17 (m) Any amendment to an existing Surveillance Technology Policy shall be submitted directly
18 to the Board of Supervisors and not to COIT.

19
20 **SEC. 19B.3. SURVEILLANCE IMPACT REPORT AND SURVEILLANCE**
21 **TECHNOLOGY POLICY SUBMISSION.**

22 (a) COIT shall post on COIT's website each Surveillance Impact Report submitted by
23 Departments under subsection 19B.2(b)(1) ~~and COIT's recommendations to the Board of~~
24 ~~Supervisor's 1 under subsection 19B.2(b)(3) for each Surveillance Technology Policy.~~

25 (b) The Department seeking approval under Section 19B.2 shall submit to the Board

1 of Supervisors and publicly post on the Department website a Surveillance Impact Report and
2 a proposed Surveillance Technology Policy ordinance at least 30 days prior to the first public
3 meeting where the Board will consider that Surveillance Technology Policy ordinance
4 pursuant to Section 19B.2.

5 ~~(c) Prior to submitting the Surveillance Technology Policy ordinance to the Board, the~~
6 ~~Department must first approve the policy, submit the policy to the City Attorney for review, and submit~~
7 ~~the policy to the Mayor.~~

8
9 **SEC. 19B.5. COMPLIANCE FOR EXISTING SURVEILLANCE TECHNOLOGY.**

10 (a) Each Department possessing or using Surveillance Technology before the
11 effective date of this Chapter 19B shall submit an inventory of its Surveillance Technology to
12 COIT, within 60 days of the effective date of this Chapter. COIT shall publicly post the
13 inventory on COIT's website.

14 ~~(b) Each Department possessing or using Surveillance Technology before the effective date of~~
15 ~~this Chapter 19B shall submit a proposed Surveillance Technology Policy ordinance to the Board of~~
16 ~~Supervisors, in accordance with the procedures set forth in subsection 19B.2(b), for each particular~~
17 ~~Surveillance Technology no later than 180 days following the effective date of this Chapter, for review~~
18 ~~and approval by the Board by ordinance. A Department may submit a Surveillance Technology Policy~~
19 ~~ordinance that includes multiple, separate policies for each particular Surveillance Technology~~
20 ~~possessed or used before the effective date of this Chapter 19B.~~

21 ~~(c) If a Department is unable to meet this 180-day timeline, the Department may notify the~~
22 ~~COIT in writing of the Department's request to extend this period and the reasons for that request.~~
23 ~~COIT may for good cause grant a Department extensions of up to 90 days per extension, beyond the~~
24 ~~180-day timeline to submit a proposed Surveillance Technology Policy.~~

25 ~~(d) Each Department possessing or using Surveillance Technology before the~~

1 effective date of this Chapter 19B may continue its use of the Surveillance Technology and
2 the sharing of data from the Surveillance Technology until such time as the Board enacts an
3 ordinance regarding the Department's Surveillance Technology Policy and such ordinance
4 becomes effective under Charter Section 2.105.

5 (c) Beginning on March 1, 2025, and every six months thereafter, COIT staff shall issue and
6 post on its website a report that includes the status of any Surveillance Technology listed on an
7 inventory under Section 19B.5 and the number of Surveillance Technologies in use by Departments and
8 still awaiting an approved Surveillance Technology Policy, including the number of Surveillance
9 Technologies in use by the Police Department under Section 19B.2(c).

10
11 **SEC. 19B.6. ANNUAL SURVEILLANCE REPORT.**

12 (a) A Department that obtains approval for the acquisition of Surveillance
13 Technology under Section 19B.2 must submit to the Board of Supervisors and COIT, and
14 make available on its website, an Annual Surveillance Report for all each Surveillance
15 Technology used by the City Department within 12 months of Board approval of the applicable
16 Surveillance Technology Policy, and ~~annually thereafter~~ on or before November 1 every two
17 years thereafter. If the Department is unable to meet the deadline, the Department may submit
18 a request to COIT for an extension of the deadline. COIT may extend the deadline for good
19 cause. For each report a Department submits to the Board of Supervisors, the Department shall
20 include a resolution to accept the report.

21 (b) ~~By no later than February 15 of each year, each Department that has obtained approval~~
22 ~~for the acquisition of Surveillance Technology under Section 19B.2 shall submit to the Board of~~
23 ~~Supervisors the Department's Annual Surveillance Report and a resolution to accept the report.~~

24 (e) ~~By no later than February 15 of each year, the Board of Supervisors shall publish a~~
25 summary of all requests for Board approval of Surveillance Technology Policy ordinances for

1 *the prior calendar year*, which shall include a summary of any Board action related to such
2 requests, and all Annual Surveillance Reports submitted in the prior calendar year.

3 (c~~d~~) By no later than February 15 of each year, COIT shall post on its website each
4 Annual Surveillance Report submitted to COIT in the prior year.

5
6 Section 2. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor’s veto of the ordinance.

10
11 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the “Note” that appears under
16 the official title of the ordinance.

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/
21 KATE G. KIMBERLIN
22 Deputy City Attorney

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