

1 [Administrative Code - Surveillance Technology]

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3 **Ordinance amending the Administrative Code to authorize the Police Department to**  
4 **acquire and use surveillance technology with respect to certain criminal events, as**  
5 **defined herein, and criminal activity that is concentrated in certain geographically**  
6 **distinct areas.**

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

11

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

13

14 Section 1. Findings. The City is facing unprecedented public safety and health crises  
15 stemming from illegal drugs, theft, and violence. These factors become entrenched within  
16 neighborhoods, impacting the lives of individuals, families, and businesses in those areas.  
17 They are also erupting spontaneously in commercial areas of our City, threatening our  
18 collective sense of safety and security and the ability of businesses to ensure the safety of  
19 their employees and customers. While the City must continue to ensure that no City  
20 department acquires or uses Surveillance Technology without first obtaining approval, as set  
21 forth in Administrative Code Chapter 19B, it also must balance that protection against the  
22 need for law enforcement to have the tools and information necessary to nimbly respond to  
23 incidents and conditions that pose immediate dangers to our community. To this end,  
24 Administrative Code Chapter 19B is amended to authorize the San Francisco Police  
25 Department to temporarily acquire and use Surveillance Technology to monitor, review, or

1 respond to a Critical Event or to monitor, review, or respond to criminal activity occurring in a  
2 Public Safety Crisis Area.

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4 Section 2. Chapter 19B of the Administrative Code is hereby amended by revising  
5 Section 19B.1 (to add defined terms to be sequenced alphabetically with existing defined  
6 terms) and adding Section 19B.7-1, to read as follows:

7 **SEC. 19B.1 DEFINITIONS.**

8 “Acquire” means to buy, receive, or otherwise obtain.

9 \* \* \* \*

10 “Chief of Police” means the Chief of Police or the Chief’s designee.

11 \* \* \* \*

12 “Critical Event” means an incident, occurrence, or event of a criminal nature involving serious  
13 property damage or serious physical injury to any person, or an imminent threat of such an incident,  
14 occurrence, or event based on credible information. Critical Events meeting this definition may  
15 include, but are not limited to: mass assaults using firearms, vehicles, or other dangerous weapons;  
16 actual or suspected terrorist acts; arson; hostage and kidnapping incidents; organized theft or  
17 burglary; and looting or rioting.

18 \* \* \* \*

19 “Public Safety Crisis Area” means a geographic area in the City and County of San Francisco,  
20 as declared by the Chief of Police, where repeated or sustained high levels of criminal activity are  
21 directly impacting or jeopardizing public health or safety, including but not limited to areas with open-  
22 air illegal drug markets; areas where public drug sales and use block or inhibit public access to  
23 community amenities and services, such as public transit, parks, and playgrounds; and areas where  
24 there has been a documented increase in violent crimes over a 14-day period or longer.

25 \* \* \* \*

1 “Use” means to access, operate, or deploy Surveillance Technology so that information of any  
2 type or images captured or recorded thereon may be monitored in real time or reviewed after the  
3 information or images are captured or recorded.

4 \* \* \* \*

5 **SEC. 19B.7-1. ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY BY THE**  
6 **POLICE DEPARTMENT IN RESPONSE TO A CRITICAL EVENT OR A PUBLIC SAFETY**  
7 **CRISIS.**

8 (a) Notwithstanding any other provision of this Chapter 19B, and subject to the  
9 requirements of subsection (c) of this Section 19B.7-1, the San Francisco Police Department (“Police  
10 Department”) may temporarily acquire or use, and may enter into agreements to temporarily acquire  
11 or use, Surveillance Technology, including Surveillance Technology owned or operated by another City  
12 Department, non-City entity, or individual, to monitor, review, or respond to criminal activity  
13 connected to a Critical Event or to monitor, review, or respond to criminal activity occurring in a  
14 Public Safety Crisis Area.

15 (b) The Chief of Police must comply with the following notice requirements in connection  
16 with a Critical Event or Public Safety Crisis Area declaration.

17 (1) The Chief of Police must notify the Mayor, the Board of Supervisors, and the  
18 Police Commission in writing that a Critical Event has occurred or is imminent based on credible  
19 information, and, without compromising police response, describe the circumstances of the Critical  
20 Event before, if feasible, or immediately after the Police Department acquires or uses Surveillance  
21 Technology pursuant to this Section 19B.7-1.

22 (2) When the Chief of Police declares an area to be a Public Safety Crisis Area, the  
23 declaration must be in writing; must provide specific, articulable facts giving rise to the crisis; and  
24 must include recent, contemporaneous, and reliable data or reports in support of the declaration. The  
25 Chief of Police must transmit the declaration to the Mayor, the Board of Supervisors, and the Police

1 Commission before the Police Department may acquire or use Surveillance Technology pursuant to  
2 this Section 19B.7-1.

3 (c) If the Police Department temporarily acquires or uses Surveillance Technology under  
4 this Section 19B.7-1, the Police Department shall adhere to the following restrictions:

5 (1) Restricted Use: Use the Surveillance Technology solely to monitor, review, or  
6 respond to criminal activity connected to the Critical Event or criminal activity that formed the basis  
7 for the Public Safety Crisis Area declaration. Notwithstanding the foregoing, if the Police Department  
8 uncovered criminal activity unrelated to the facts and circumstances giving rise to the Public Safety  
9 Crisis Area declaration, the Police Department may retain and use information or data relating to that  
10 criminal activity consistent with subsection (c)(3).

11 (2) Restricted Time of Use: Use the Surveillance Technology no longer than is  
12 reasonable under the circumstances in the judgment of the Chief of Police. In addition to this general  
13 requirement regarding timing, which must always be satisfied, the following specific requirements  
14 place timing caps on the use of Surveillance Technology permitted by this Section 19B.7-1:

15 (A) When the Police Department has acquired or used Surveillance  
16 Technology with respect to a Critical Event, the Police Department must cease using the Surveillance  
17 Technology within 24 hours after the Critical Event or the threat of an imminent Critical Events ends.  
18 If the Chief of Police determines within that 24-hour period that there is a likelihood of further Critical  
19 Events of the same or similar nature in the same vicinity or perpetrated by some of the same individuals  
20 as the initial Critical Event, the Police Department must cease using the Surveillance Technology  
21 within eight days after the initial Critical Event ends. The Chief of Police must provide written notice  
22 of such determination to the Mayor, the Board of Supervisors, and the Police Commission. If a  
23 subsequent Critical Event occurs during that eight-day period, the timing restrictions set forth in this  
24 subsection (c)(2)(A) shall independently apply to that subsequent Critical Event.

1                                    (B) When the Police Department has acquired or used Surveillance  
2 Technology with respect to a Public Safety Crisis Area, the Police Department may use the  
3 Surveillance Technology for an initial period of up to 30 days. After that 30-day period, the Police  
4 Department may not continue to possess or use the Surveillance Technology unless the Chief of Police  
5 finds that (i) use of Surveillance Technology is necessary to enable the Police Department to respond to  
6 and abate the circumstances causing or contributing to public harms in the Public Safety Crisis Area,  
7 and (ii) use of Surveillance Technology during the preceding 30-day period has assisted the Police  
8 Department in addressing public harms in the Public Safety Crisis Area. This finding must be made  
9 every 30 days and must be transmitted in writing to the Mayor, the Board of Supervisors, and the  
10 Police Commission to continue the authorization to possess or use the Surveillance Technology.

11                                    (3) Restricted Retention of Data: Keep and maintain information or data obtained  
12 by use of Surveillance Technology only when the information or data is related to criminal activity  
13 connected to the Critical Event, Public Safety Crisis Area declaration, or any criminal investigation.  
14 The Police Department shall dispose of any information or data that is not relevant to a criminal  
15 investigation unless its retention is (A) authorized by court order, or (B) required by law.

16                                    (4) Required Report: Submit a written report summarizing the acquisition or use of  
17 Surveillance Technology under this Section 19B.7-1 to the Board of Supervisors within 60 days  
18 following the inception of the Critical Event or the threat of an imminent Critical Event or the  
19 declaration of a Public Safety Crisis Area.

20                                    (d) Any Surveillance Technology temporarily acquired under this Section 19B.7-1 shall be  
21 returned within seven days after the possession or use of the Surveillance Technology no longer is  
22 permitted as provided in subsection (c)(2), unless the Police Department submits a Surveillance Impact  
23 Report to begin the process of seeking Board of Supervisors approval for such Surveillance Technology  
24 pursuant to Section 19B.2.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.

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APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By:         /s/    
ZACHARY PORIANDA  
Deputy City Attorney

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