

1 [Administrative Code - Surveillance Technology/Services Acquisition]

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3 **Ordinance amending the Administrative Code to require City departments acquiring**  
 4 **surveillance technology to submit an approved Surveillance Data Policy to the Board of**  
 5 **Supervisors in connection with any request to appropriate funds for the purchase of**  
 6 **such technology or to accept and expend grant funds for such purpose, or otherwise**  
 7 **to procure surveillance technology equipment or services; require each City**  
 8 **department that owns and operates existing surveillance technology equipment or**  
 9 **services to adopt a Surveillance Data Policy for the surveillance technology within 12**  
 10 **months; authorize the Controller, as City Services Auditor, to audit the use of**  
 11 **surveillance technology equipment or services and the conformity of such use with an**  
 12 **approved Surveillance Data Policy annually and provide an audit report to the Board of**  
 13 **Supervisors; and affirming the Planning Department's determination under the**  
 14 **California Environmental Quality Act.**

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

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

23 Section 1. Environmental Findings.

24 (a) The Planning Department has determined that the actions contemplated in this  
 25 ordinance comply with the California Environmental Quality Act (California Public Resources  
 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
2 determination.

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4 Section 2. Findings.

5 (a) Responsible use of surveillance technology can offer many benefits to public  
6 safety and government accountability.

7 (b) Any decision to use surveillance technology must be carefully balanced with the  
8 need to protect civil rights and civil liberties, including privacy and free expression, and with  
9 the costs to the City and County of San Francisco.

10 (c) Proper transparency, oversight, and accountability are fundamental to minimizing  
11 the risks posed by surveillance technologies.

12 (d) It is essential to have an informed public debate as early as possible about whether  
13 City departments should adopt surveillance technology and, if so, the processes for and limits  
14 on its use.

15 (e) Legally enforceable safeguards must be in place to protect civil liberties and civil  
16 rights before any surveillance technology is deployed.

17 (f) If surveillance technology is approved, there must be continued oversight and  
18 annual evaluation to ensure that safeguards are being followed and that the surveillance  
19 technology's benefits outweigh its costs.

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21 Section 3. The Administrative Code is hereby amended by revising Sections 2A.20  
22 and 10.170-1, and adding Sections 3.27 and 21.07, to read as follows:

23 **SEC. 3.27. APPROPRIATIONS FOR SURVEILLANCE TECHNOLOGY EQUIPMENT**  
24 **AND SERVICES.**

1           (a) To the extent that an appointing officer, agency, board, or commission (collectively, the  
2 “requesting department”) seeks funding to acquire Surveillance Technology Equipment or Services,  
3 the requesting department shall transmit a Surveillance Data Policy with any budget estimate  
4 submitted to the Controller in accordance with Section 3.3(a) or 3.15 of the Administrative Code. To  
5 the extent the Mayor concurs in the funding request and the Surveillance Data Policy, the Mayor shall  
6 include the Surveillance Data Policy with the proposed budget submitted to the Board of Supervisors in  
7 accordance with Section 3.3(c) or (d) of the Administrative Code, or, in the case of a supplemental  
8 appropriation, Section 3.15 of the Administrative Code. Where a proposed appropriation would  
9 involve Surveillance Technology Equipment or Services that the requesting department has not  
10 previously used, the requesting department may submit a preliminary draft Surveillance Data Policy,  
11 provided that the requesting department reviews and updates such a preliminary draft policy within 12  
12 months of implementing the Surveillance Technology Equipment or Services in accordance with  
13 Administrative Code Section 2A.20(b).

14           (b) “Surveillance Technology Equipment or Services” shall mean electronic devices or systems  
15 primarily designed and used to collect and retain data for purposes of identifying the location, identity,  
16 or activities of any natural person who is a member of the general public. Surveillance Technology  
17 Equipment or Services shall not include:

18           (1) electronic devices or systems primarily designed and used to monitor the delivery of  
19 City services or the activities and performance of City employees, contractors or subcontractors;

20           (2) electronic devices or systems primarily designed and used to monitor the condition  
21 of and activities on property the City owns or controls other than public rights of way;

22           (3) electronic devices or systems primarily designed and used to facilitate City delivery  
23 of public programs or services or public access to and use of City programs and services.

24           (4) electronic devices or systems used by the District Attorney, Sheriff, Chief Adult  
25 Probation Office, and Chief Juvenile Probation Officer to fulfill their duties under state law, including

1 their constitutional and statutory power and duties as interpreted under Government Code section  
2 25303, or other applicable State law or judicial decision.

3 (c) A “Surveillance Data Policy” shall include:

4 \_\_\_\_\_ (1) A description of the product and services addressed by the policy, including  
5 manufacturer and model numbers and/or the identity of any provider(s) whose services are essential to  
6 the functioning or effectiveness of the Surveillance Technology Equipment or Services for the intended  
7 purpose;\_\_\_\_\_

8 \_\_\_\_\_ (2) A description of the purpose(s) for which the Surveillance Technology Equipment or  
9 Services are proposed for acquisition;

10 \_\_\_\_\_ (3) The full cost of the Surveillance Technology Equipment or Services, including both  
11 initial acquisition cost and any ongoing maintenance and operation costs;

12 \_\_\_\_\_ (4) The locations in which the department proposes to gather data using the  
13 Surveillance Technology Equipment or Services;

14 \_\_\_\_\_ (5) A description of the method for storing collected data, the owner of the storage  
15 media and the data itself, the cost and methods for accessing stored data, and the anticipated duration  
16 of data retention;

17 \_\_\_\_\_ (6) A description of the expected public records status of data the Surveillance  
18 Technology Equipment or Services gathers or generates, including any prohibitions on or exemptions  
19 from disclosure that may affect public access to stored data;

20 \_\_\_\_\_ (7) Safeguards that will minimize any possible chilling effect that may be caused by the  
21 Surveillance Technology Equipment and Services on lawful activities by members of the general public;  
22 and

23 \_\_\_\_\_ 8. Safeguards that will prevent unauthorized use of or access to collected data.

24 (d) An “Annual Surveillance Report” shall mean a written report concerning a specific  
25 surveillance technology that includes all of the following:

1           (1) A description of how the surveillance technology was used, including a description  
2 of data that has been retained and data that has been deleted;

3           (2) Whether and how often data acquired through the use of the surveillance technology  
4 was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, under  
5 what legal standard(s) the information was disclosed, and the justification for the disclosure(s);

6           (3) A summary of public comments, complaints, or concerns about the surveillance  
7 technology;

8           (4) The results of any internal audits, any information about violations of the  
9 Surveillance Data Policy, and any actions taken in response;

10           (5) Information, including crime statistics, that help the community assess whether the  
11 surveillance technology has been effective at achieving its identified purposes;

12           (6) Information about public records act requests related to the surveillance  
13 technology, including how the department responded to the requests; and

14           (7) Total annual costs for the surveillance technology, including personnel and other  
15 ongoing costs, and what source of funding will fund the technology in the coming year.

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17           **SEC. 10.170-1. GRANT FUNDS – ACCEPTANCE AND EXPENDITURE.**

18           (a) Any department, board, or commission that seeks to accept and expend federal,  
19 State, or other grant funds must comply with any applicable provisions of this Section.

20           (b) The acceptance and expenditure of federal, State, or other grant funds in the  
21 amount of \$100,000 or more is subject to the approval by resolution of the Board of  
22 Supervisors. If, as a condition of the grant, the City is required to provide any matching funds,  
23 those funds shall be included in determining whether the grant meets the \$100,000 threshold.  
24 This subsection shall also apply to an increase in a grant where the increase, alone or in  
25 combination with any other previous increases to that grant, would raise the cumulative total

1 amount of the grant to \$100,000 or more. The department, board, or commission requesting  
2 approval shall submit the following documents to the Board prior to its consideration:

3 (1) A proposed resolution approving the acceptance and expenditure of grant  
4 funds, or a proposed ordinance as required under subsection (db), signed by the department  
5 head, the Mayor or his or her designee, and the Controller;

6 (2) A completed "Grant Information Form." The Clerk of the Board shall prepare  
7 the form; it shall include a disability access checklist, indirect cost recovery, and other  
8 information as the Board of Supervisors may require;

9 (3) A copy of the grant application;

10 (4) A letter of intent to award the grant or acknowledgment of grant award from  
11 the granting agency; and,

12 (5) A cover letter to the Clerk of the Board of Supervisors substantially  
13 conforming to the specifications of the Clerk of the Board.

14 (c) Grants or Increases to Grants of Less Than \$100,000. The Controller may  
15 prescribe rules for the acceptance and expenditure of federal, State, or other grant funds in  
16 amounts less than \$100,000, or for increases to grants where the increase, alone or in  
17 combination with any other previous increases to that grant, would not raise the cumulative  
18 total amount of the grant to \$100,000 or more. The Controller may also prescribe rules for the  
19 acceptance and expenditure of increases to grants, where the original grant or any  
20 subsequent increase to the grant has been approved by the Board of Supervisors under  
21 subsection (b) or (d) and where the latest increase would be in an amount less than \$50,000.

22 \* \* \* \*

23 (l) Surveillance Technology Equipment and Services.

1                    (1) For purposes of this subsection (l), “Surveillance Technology Equipment or  
2 Services” and “Surveillance Data Policy” shall have the meanings set forth in Section 3.27 of the  
3 Administrative Code.

4                    (2) Notwithstanding the provisions of subsection (c) above, when any department,  
5 board, or commission (collectively, the “requesting department”) seeks authority to accept and expend  
6 federal, State, or other grant funds in any amount to purchase Surveillance Technology Equipment or  
7 Services, the requesting department must submit an approved Surveillance Data Policy to the Board of  
8 Supervisors with a request for authorization to accept and expend grant funds. The Surveillance Data  
9 Policy must be approved by the requesting department and the Mayor after review by the City Attorney  
10 for compliance with all applicable law. Where a request for authority to accept and expend grant  
11 funds involves Surveillance Technology Equipment or Services that the requesting department has not  
12 previously used, the requesting department may approve and submit a preliminary draft Surveillance  
13 Data Policy, provided that the requesting department reviews and updates such a preliminary draft  
14 within 12 months of implementing the Surveillance Technology Equipment or Services in accordance  
15 with Administrative Code Section 2A.20(b).

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17                    **SEC. 21.07. ACQUISITION OF SURVEILLANCE TECHNOLOGY EQUIPMENT AND**  
18 **SERVICES.**

19                    (a) Notwithstanding any authority set forth in this Chapter 21, neither the Purchaser nor any  
20 Contracting Officer may acquire any Surveillance Technology Equipment or Services within the  
21 meaning set forth in Section 3.27 of the Administrative Code unless: (1) the Board of Supervisors has  
22 appropriated funds for such an acquisition in accordance with the requirements of Section 3.27; or (2)  
23 the Board of Supervisors or Controller has authorized acceptance and expenditure of grant funds for  
24 such purpose in accordance with Section 10.170-1(l) of the Administrative Code; or (3) the Purchaser  
25 or Contracting Officer has submitted a report of such planned purchase to the Board of Supervisors.

1 along with a Surveillance Data Policy supporting the purchase that satisfies the requirements of  
2 Section 3.27 of the Administrative Code, at least 30 days before approving any purchase.

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4 **SEC. 2A.20. CONTROLLER'S AUDITS.**

5 (a) The Controller shall audit the accounts of all boards, officers and employees of the  
6 City and County charged in any manner with the custody, collection, or disbursement of funds.  
7 The Controller shall audit all accounts of money coming into the hands of the Treasurer, the  
8 frequency of which shall be governed by State law.

9 The Controller shall have the authority to audit the operations of all boards,  
10 commissions, officers and departments to evaluate their effectiveness and efficiency. The  
11 Controller shall have access to, and authority to examine all documents, records, books and  
12 other property of any board, commission, officer or department.

13 When requested by the Mayor, the Board of Supervisors, or any board or commission  
14 for its own department, the Controller shall audit the accounts of any officer or department.

15 (b) Surveillance Policy Review.

16 (1) Review of Existing Systems. Any City Department that, as of the effective date of  
17 Section 3.27 of the Administrative Code, operates Surveillance Technology Equipment or Services  
18 shall, within one year of the effective date of Section 3.27, adopt a written Surveillance Data Policy  
19 governing the equipment and services and submit such policy to the Board of Supervisors.

20 (2) Periodic Policy Review. Any City Department that operates Surveillance  
21 Technology Equipment and Services shall review annually the use of the equipment and services and  
22 the adequacy of the Surveillance Data Policy governing the equipment and services and submit an  
23 Annual Surveillance Report, as well as any changes to its approved Surveillance Data Policy, to the  
24 Board of Supervisors.



1                   (3) Audit of Surveillance Data Policies. Acting as City Services Auditor, and beginning  
2 in fiscal year 2017-2018, the Controller shall audit annually the use of Surveillance Technology  
3 Equipment and Services by any City Department. That audit shall include a review of whether a  
4 department has and is operating in compliance with an approved Surveillance Data Policy, and has  
5 completed an Annual Surveillance Report. The audit shall also include a review of the difference, if  
6 any, between the full cost of the Surveillance Technology Equipment and Services included in the  
7 Surveillance Data Policy and the total annual costs for the Surveillance Technology or Services  
8 included in the Annual Surveillance Report. At the completion of the audit and in consultation with the  
9 City Attorney, the Controller shall recommend any changes to any Surveillance Data Policy and its  
10 implementation to the Board of Supervisors

11                   (4) For purposes of this subsection (b), “Surveillance Technology Equipment or  
12 Services,” “Surveillance Data Policy,” and “Annual Surveillance Report” shall have the meanings set  
13 forth in Section 3.27 of the Administrative Code.

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

18                   Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
22 additions, and Board amendment deletions in accordance with the “Note” that appears under  
23 the official title of the ordinance.

24                   Section 6. Conflict with State or Federal Law.

1            Nothing in this ordinance shall authorize the City to impose any duties or obligations in  
2 conflict with limitations on municipal authority imposed by state or federal law.

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

6 By: \_\_\_\_\_  
7        Jana Clark  
8        Deputy City Attorney

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