

## Palo Alto Municipal Code Chapter 2.30

### **PART 6A — SURVEILLANCE AND PRIVACY PROTECTIONS**

#### **2.30.620 Title.**

This Part 6A shall be known as the Surveillance and Privacy Protection Ordinance.

(Ord. 5450 § 2 (part), 2018)

#### **2.30.630 Council approval required for contracts, agreements, grant applications and donations involving surveillance technology.**

The Council shall approve each of the following:

(a) Applications for grants, acceptance of state or federal funds, or acceptance of in-kind or other donations of surveillance technology;

(b) Notwithstanding any delegation of authority to award contracts in this chapter, contracts of any type and any amount that include acquisition of new surveillance technology;

(c) Use of Council-approved surveillance technology for a purpose, in a manner, or in a location outside the scope of prior Council approval; or

(d) Agreements with a non-city entity to acquire, share, or otherwise use surveillance technology or the information it provides.

(Ord. 5494 § 31, 2020: Ord. 5450 § 2 (part), 2018)

#### **2.30.640 Council approval of surveillance use policy.**

The Council shall approve a surveillance use policy addressing each activity that it approves that is listed in Section [2.30.630](#). If no current surveillance use policy covers an approved activity, Council shall adopt a new policy or amend an existing policy to address the new activity.

(Ord. 5494 § 32, 2020: Ord. 5450 § 2 (part), 2018)

#### **2.30.650 Information required.**

Unless it is not reasonably possible or feasible to do so, before Council approves a new activity listed in Section [2.30.630](#), the city should make available to the public a surveillance evaluation and a proposed surveillance use policy for the proposed activity.

(Ord. 5494 § 33, 2020: Ord. 5450 § 2 (part), 2018)

### **2.30.660 Determination by Council that benefits outweigh costs and concerns.**

Before approving any new activity listed in Section [2.30.630](#), the Council shall assess whether the benefits of the surveillance technology outweigh its costs. The Council should consider all relevant factors, including financial and operational impacts, enhancements to services and programs, and impacts on privacy, civil liberties, and civil rights.

(Ord. 5494 § 34, 2020: Ord. 5450 § 2 (part), 2018)

### **2.30.670 Oversight following Council approval.**

Beginning after the close of fiscal year 2019 and annually thereafter, the city shall produce and make available to the public an annual surveillance report. The annual surveillance report should be noticed as an informational report to the Council. The Council may calendar the annual surveillance report or any specific technology included in the report for further discussion or action, and may direct that (a) use of the surveillance technology be modified or ended; (b) the surveillance use policy be modified; or (c) other steps be taken to address Council and community concerns.

(Ord. 5494 § 35, 2020: Ord. 5450 § 2 (part), 2018)

### **2.30.680 Definitions.**

The following definitions apply to this section:

(a) "Annual surveillance report" means a written report, submitted after the close of the fiscal year and that includes the following information with respect to the prior fiscal year:

(1) A description of how each Council-approved surveillance technology was used, including whether it captured images, sound, or information regarding members of the public who are not suspected of engaging in unlawful conduct;

(2) Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the types of data disclosed, and the reason for the disclosure;

(3) A summary of any community complaints or concerns about the surveillance technology;

(4) Non-privileged and non- confidential information regarding the results of any internal audits, information about violations of the surveillance use policy, and any actions taken in response;

(5) Whether the surveillance technology has been effective at achieving its identified purpose;

(6) The number and nature of Public Records Act requests relating to the surveillance technology;

(7) Annual costs for the surveillance technology and for compliance with this surveillance and privacy protection ordinance, including personnel and other ongoing costs, and sources of funding; and

(8) Other relevant information as determined by the City Manager.

The annual surveillance report will not include information that may compromise the integrity or limit the effectiveness of a law enforcement investigation.

(b) "Surveillance evaluation" means written information, including as part of a staff report, including:

(1) A description of the surveillance technology, including how it works and what information it captures;

(2) Information on the proposed purpose, use and benefits of the surveillance technology;

(3) The location or locations where the surveillance technology may be used;

(4) Existing federal, state and local laws and regulations applicable to the surveillance technology and the information it captures; the potential impacts on civil liberties and privacy; and proposals to mitigate and manage any impacts;

(5) The costs for the surveillance technology, including acquisition, maintenance, personnel and other costs, and current or potential sources of funding.

(c) "Surveillance technology" means any device or system primarily designed and actually used or intended to be used to collect and retain audio, electronic, visual, location, or similar information constituting personally identifiable information associated with any specific individual or group of specific individuals, for the purpose of tracking, monitoring or analysis associated with that individual or group of individuals. Examples of surveillance technology include drones with cameras or monitoring capabilities, automated license plate readers, closed-circuit cameras/televisions, cell-site simulators, biometrics-identification technology and facial- recognition technology. For the purposes of this chapter, "surveillance technology" does not include:

- (1) Any technology that collects information exclusively on or regarding city employees or contractors;
- (2) Standard word-processing software; publicly available databases; and standard message tools and equipment, such as voicemail, email, and text message tools;
- (3) Information security tools such as web filtering, virus detection software;
- (4) Audio and visual recording equipment used exclusively at open and public events, or with the consent of members of the public;
- (5) Medical devices and equipment used to diagnose, treat, or prevent disease or injury;
- (6) Any technology used as part of the Foothills Fire Early Warning System to detect fires within the following area:

West Side: Skyline Blvd (Hwy 35) from Route 84 (Woodside Rd/La Honda Rd.) to Hwy 9

North Side: Route 84 from Skyline to Alameda de las Pulgas

East Side: Alameda de las Pulgas to Santa Cruz Ave to Junipero Serra Rd. to Foothill Expwy.

South Side: Draw a line from the intersection of Hwy 9 at Hwy 35 to the intersection of Foothill Expwy at Magdalena.

(d) "Surveillance use policy" means a stand-alone policy or a section in a comprehensive policy that is approved by Council and contains:

- (1) The intended purpose of the surveillance technology.
- (2) Uses that are authorized, any conditions on uses, and uses that are prohibited.
- (3) The information that can be collected by the surveillance technology.
- (4) The safeguards that protect information from unauthorized access, including, but not limited to, encryption, access-control, and access oversight mechanisms.
- (5) The time period for which information collected by the surveillance technology will be routinely retained; the process by which the information is regularly deleted after that period lapses; and conditions and procedures for retaining information beyond that period.
- (6) If and how non-city entities can access or use the information, including conditions and rationales for sharing information, and any obligations imposed on the recipient of the information.

(7) A description of compliance procedures, including functions and roles of city officials, internal recordkeeping, measures to monitor for errors or misuse, and corrective procedures that may apply.

(Ord. 5555 § 2, 2022: Ord. 5494 § 36, 2020: Ord. 5450 § 2 (part), 2018)

**2.30.690 No private right of action.**

This surveillance and privacy protection ordinance is not intended and shall not be interpreted to create a private right of action for damages or equitable relief on behalf of any person or entity against the city or any of its officers or employees.

(Ord. 5450 § 2 (part), 2018)