

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the City of Seattle’s use of surveillance equipment; requiring City departments to obtain City Council approval prior to acquiring certain surveillance equipment; requiring departments to propose protocols related to proper use and deployment of certain surveillance equipment for Council review, requiring departments to adopt written protocols that address data retention, storage and access of any data obtained through the use of certain surveillance equipment, and establishing a new Chapter 14.18 in the Seattle Municipal Code.

WHEREAS, recent incidents involving the City’s acquisition of drones and the installation of video cameras along Seattle’s waterfront and downtown have raised concerns over privacy and the lack of public process leading up to the decisions to use certain surveillance equipment; and

WHEREAS, while surveillance equipment may help promote public safety in some contexts, such as red light cameras, the benefits of such technologies should be balanced with the need to protect privacy and anonymity, free speech and association, and equal protection; ~~weighed against the potential downsides, including impacts on privacy;~~ and

WHEREAS, while the courts have established that people generally do not have a reasonable expectation of privacy in public settings, the City should be judicious in its use of surveillance equipment to avoid creating a constant and pervasive surveillance presence in public life; and

WHEREAS, all City departments should seek approval from the City Council prior to the acquisition and operation of certain surveillance equipment; and

WHEREAS, City departments should also propose specific protocols for Council review and approval that address the appropriate use of certain surveillance equipment and any data captured by such equipment; and

WHEREAS, based upon the City Auditor Office’s recommendations related to the Seattle Police Departments handling of in-car video footage, departments should also develop protocols for retaining, storing, and accessing data captured by surveillance equipment; NOW, THEREFORE,

1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

2 Section 1. A new Chapter 14.18 of the Seattle Municipal Code is established as follows:

3 **Chapter 14.18 Acquisition and Use of Surveillance Equipment**

4 **SMC 14.18.10 Definitions**

5 The following definitions apply to this Chapter 14.18

6 “Data management protocols” generally means procedures governing how data collected
7 by surveillance equipment will be retained, stored, indexed and accessed. Information
8 comprising data management protocols includes, at a minimum, the information required in
9 Section 14.18.30.

10 “Operational protocols” generally means procedures governing how and when
11 surveillance equipment may be used and by whom. Information comprising operational protocols
12 includes, at a minimum, the information required in Section 14.18.20.

13 ”Surveillance equipment” means equipment capable of capturing or recording data,
14 including images, videos, photographs or audio operated by or at the direction of a City
15 department that may deliberately or inadvertently capture activities of individuals on public or
16 private property, regardless of whether “masking” or other technology might be used to obscure
17 or prevent the equipment from capturing certain views. ”Surveillance equipment” includes
18 drones or unmanned aircraft and any attached equipment used to collect data. ”Surveillance
19 equipment” does not include a handheld or body-worn device, a camera installed in or on a
20 police vehicle, a camera installed in or on any vehicle or along a public right-of-way intended to
21 record traffic patterns and/or traffic violations, a camera intended to record activity inside or at
22 the entrances to City buildings for security purposes, or a camera installed to monitor and protect
23 the physical integrity of City infrastructure, such as Seattle Public Utilities reservoirs.

1 **SMC 14.18.20 Council Approval for City Department Acquisition and Operations of**
2 **Surveillance Equipment**

3 Any City department intending to acquire surveillance equipment shall obtain City
4 Council approval via ordinance prior to acquisition. Prior to deployment or installation of the
5 surveillance equipment, City departments shall obtain Council approval via ordinance of
6 operational protocols, unless applicable operational protocols were previously approved by
7 ordinance. In requesting approval for acquisition of surveillance equipment, City departments
8 shall include proposed operational protocols containing the following information for the City
9 Council's consideration, along with any other information specifically requested by the City
10 Council:

- 11 A. A clear statement describing the purpose and use of the proposed surveillance equipment.
- 12 B. The type of surveillance equipment to be acquired and used.
- 13 C. The intended specific location of such surveillance equipment if affixed to a building or
14 other structure.
- 15 D. How and when a department proposes to use the surveillance equipment, such as whether
16 the equipment will be operated continuously or used only under specific circumstances,
17 and whether the equipment will be installed permanently or temporarily
- 18 E. A description of the privacy and anonymity rights affected and a mitigation plan
19 describing how the department's use of the equipment will be regulated to protect
20 privacy, anonymity, and limit the risk of potential abuse.
- 21 F. A description of how and when data will be collected and retained and who will have
22 access to any data captured by the surveillance equipment.
- 23 G. The extent to which activity will be monitored in real time as data is being captured and
24 the extent to which monitoring of historically recorded information will occur.

1 H. A public outreach plan for each community in which the department intends to use the
2 surveillance equipment that includes opportunity for public meetings, a public comment
3 period, and written agency response to these comments.

4 I. If a department is requesting to acquire or use drones or other unmanned aircraft, it shall
5 propose the specific circumstances under which they may be deployed, along with clearly
6 articulated authorization protocols.

7 J. If more than one department will have access to the surveillance equipment or the data
8 captured by it, a lead department shall be identified that is responsible for maintaining the
9 equipment and ensuring compliance with all related protocols. If the lead department
10 intends to delegate any related responsibilities to other departments and city personnel,
11 these responsibilities and associated departments and personnel shall be clearly
12 identified.

13 K. Whether a department intends to share access to the surveillance equipment or the
14 collected data with any other government entity.

15 L. A description of the training to be provided to operators or users of the surveillance
16 equipment.

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18 Upon review of the information required under this Section 14.18.20, and any other information
19 deemed relevant by the City Council, the City Council may approve the acquisition and
20 operation of surveillance equipment, approve the acquisition of surveillance equipment and
21 require future Council approval for operations, deny the acquisition or use of surveillance
22 equipment for the purpose proposed, or take other actions.

1 **SMC 14.18.30 Data Management Protocols for Surveillance Equipment**

2 Prior to operating surveillance equipment acquired after the effective date of this ordinance, City
3 departments shall submit written protocols for managing data collected by surveillance
4 equipment to the City Council. The City Council may require that any or all data management
5 protocols required under this Section 14.18.30 be approved by ordinance. These data
6 management protocols shall address the following:

- 7
- 8 A. The time period for which any data collected by surveillance equipment will be retained.
 - 9 B. The methods for storing recorded information, including how the data is to be labeled or
10 indexed. Such methods must allow for the department personnel and the City Auditor's
11 Office to readily search and locate specific data that is collected and determine with
12 certainty that data was properly deleted, consistent with applicable law.
 - 13 C. How the data may be accessed, including who will be responsible for authorizing access,
14 who will be allowed to request access, and acceptable reasons for requesting access.
 - 15 D. A viewer's log or other comparable method to track viewings of any data captured or
16 collected by the surveillance equipment, including the date, time, the individuals
17 involved, and the reason(s) for viewing the records.
 - 18 E. A description of the individuals who have authority to obtain copies of the records and
19 how the existence and location of copies will be tracked.
 - 20 F. A general description of the system that will be used to store the data.
 - 21 G. A description of the unit or individuals responsible for ensuring compliance with Section
22 14.18.30 and when and how compliance audits will be conducted.
- 23

24 **SMC 14.18.40 Acquisition and Use of Surveillance Equipment Related to Law Enforcement**
25 **Investigations**

1 Notwithstanding the provisions of this Chapter, City departments may acquire or use
2 surveillance equipment that ~~will be installed or is~~ used on a temporary basis for the purpose of a
3 criminal investigation supported by reasonable suspicion, or pursuant to a lawfully issued search
4 warrant, or under exigent circumstances as defined in case law. This exemption from the
5 provisions of this ordinance does not apply to surveillance cameras mounted on drones or other
6 unmanned aircraft.

7 Section 2. Unless Council previously approved operational protocols by ordinance for
8 department surveillance equipment, each City department operating surveillance equipment prior
9 to the effective date of this ordinance shall propose written operational protocols consistent with
10 SMC 14.18.20 no later than thirty days following the effective date of this ordinance for Council
11 review and approval by ordinance.

12 Section 3. Each department operating surveillance equipment prior to the effective date
13 of this ordinance shall adopt written data management protocols consistent with SMC 14.18.30
14 no later than thirty days following the effective date of this ordinance and submit these protocols
15 to the City Council for review and possible approval by ordinance.

16 Section 4. Following one year after the effective date of this ordinance, the City Council
17 will review its implementation as it applies to city department use of surveillance equipment.

18 This ordinance shall take effect and be in force 30 days after its approval by the Mayor,
19 but if not approved and returned by the Mayor within ten days after presentation, it shall take
20 effect as provided by Seattle Municipal Code Section 1.04.020.

1 Passed by the City Council the ____ day of _____, 2013, and
2 signed by me in open session in authentication of its passage this
3 ____ day of _____, 2013.

4 _____
5 _____
6 President _____ of the City Council

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8 Approved by me this ____ day of _____, 2013.

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10 _____
11 Michael McGinn, Mayor

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13 Filed by me this ____ day of _____, 2013.

14 _____
15 _____
16 Monica Martinez Simmons, City Clerk

17 (Seal)

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