

[NAME OF THE CITY/TOWN] CITY COUNCIL
ORDINANCE BANNING FACE SURVEILLANCE TECHNOLOGY

[RITUAL LANGUAGE PER LOCAL LAWS]

SECTION 1. DEFINITIONS

- a) “Face surveillance” or “facial recognition” shall mean an automated or semi-automated process that assists in identifying or verifying an individual or analyzing or capturing information about an individual based on the physical characteristics of an individual’s face, head or body, or that uses characteristics of an individual’s face, head or body to derive information about the associations, activities or location of an individual; provided, however, that “facial recognition” shall not include the use of search terms to sort images in a database.
- b) “Face surveillance system” shall mean any computer software or application that performs face surveillance or facial recognition.
- c) “[NAME OF THE CITY/TOWN]” shall mean any department, agency, bureau, and/or subordinate division of the [COMPLETE NAME OF THE CITY/TOWN].
- d) “[NAME OF THE CITY/TOWN] official” shall mean any person or entity acting on behalf of the [NAME OF THE CITY/TOWN], including any officer, employee, agent, contractor, subcontractor, or vendor.

SECTION 2. BAN ON [CITY/TOWN] USE OF FACE SURVEILLANCE

- a) It shall be unlawful for [NAME OF THE CITY/TOWN] or any [NAME OF THE CITY/TOWN] official to:
 - i) obtain, retain, possess, access, or use (1) any face surveillance system, or (2) information derived from a face surveillance system;
 - ii) enter into an agreement with any third party for the purpose of obtaining, retaining, possessing, accessing, or using, by or on behalf of [NAME OF THE CITY/TOWN] or any [NAME OF THE CITY/TOWN] official any face surveillance system; or
 - iii) issue any permit or enter into any other agreement that authorizes any third

- party, on behalf of [NAME OF THE CITY/TOWN] or any [NAME OF THE CITY/TOWN] official, to obtain, retain, possess, access, or use (1) any face surveillance system, or (2) information derived from a face surveillance system
- b) Nothing in (a) shall prohibit [NAME OF THE CITY/TOWN] Police Department from requesting facial recognition searches in accordance with Section 220 of Chapter 6 of the Massachusetts General Laws, as amended, restated, supplemented or otherwise modified from time to time.
- c) Nothing in (a) shall prohibit [NAME OF THE CITY/TOWN] or any [NAME OF THE CITY/TOWN] official from:
- i) obtaining or possessing (1) an electronic device, such as a cell phone or computer, for evidentiary purposes, or (2) an electronic device, such as a cell phone or tablet, that performs facial recognition for the sole purpose of user authentication;
 - ii) using facial recognition on an electronic device, such as a cell phone or tablet, owned by [NAME OF THE CITY/TOWN] or by any [NAME OF THE CITY/TOWN] official, for the sole purpose of user authentication;
 - iii) using social media or communications software or applications for communicating with the public, provided such use does not include the affirmative use of any facial recognition; or
 - iv) using automated redaction software, provided such software does not have the capability of performing facial recognition.

SECTION 3. ENFORCEMENT

- a) Facial recognition data collected or derived in violation of this ordinance shall be considered unlawfully obtained.
- b) No data collected or derived from any use of facial recognition in violation of this ordinance and no evidence derived therefrom may be received in evidence in any proceeding in or before any department, officer, agency, regulatory body, legislative committee, or authority subject to the jurisdiction of the [NAME OF THE CITY/TOWN], except when it is used to investigate or discipline someone for a suspected violation of this ordinance.

- c) Any violation of this ordinance constitutes an injury, and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this ordinance.
 - i) An action instituted under this paragraph shall be brought against the respective [City/Town] department, and the [City/Town] and, if necessary, effectuate compliance with this ordinance, any other governmental agency with possession, custody, or control of data subject to this ordinance.
 - ii) A court shall award costs and reasonable attorneys' fees for a plaintiff who is the prevailing party in such proceeding.
- d) Violations of this ordinance by a [City/Town] employee shall result in consequences that may include retraining, suspension, or termination, subject to due process requirements and provisions of collective bargaining agreements.
- e) Nothing in this section shall be construed to limit any individual's rights under state or federal law.

SECTION 4. SEVERABILITY

- a) If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE

- a) The provisions of this ordinance shall be effective immediately upon passage.