

SURVEILLANCE TOOLKIT: MODEL LEGISLATION FOR A BAN ON FACIAL RECOGNITION (OR OTHER SURVEILLANCE TECHNOLOGY)

This is an example of language that your City Council can adopt as an ordinance to prohibit (ban) the acquisition or use of facial recognition or surveillance technology by city departments. Your community can adopt this as a standalone ordinance, or as part of a Surveillance Technology & Community Safety Ordinance. Your coalition will need to update the legislation findings (e.g., “Whereas...”) if you customize this model to pursue a ban on a different technology.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ##### ADDING ARTICLE

OF THE ##### MUNICIPAL CODE REGARDING A PROHIBITION ON THE CITY’S
ACQUISITION AND USE OF FACIAL RECOGNITION TECHNOLOGY**

WHEREAS, the City Council finds that the propensity for facial recognition technology to endanger civil rights and civil liberties substantially outweighs its purported benefits, and the technology will exacerbate racial injustice and threaten our ability to live free of continuous government monitoring; and

WHEREAS, the City Council finds that facial recognition have the potential to grant government entities the unprecedented power to secretly identify, monitor, and locate people simply going about their daily lives, threatening Californians’ privacy, liberty, safety and freedom as guaranteed by the California Constitution.

WHEREAS, the City Council that the use of biometric surveillance systems to watch, categorize, monitor and record the activities and movements of all Californians disproportionately impacts people of color, women, immigrants, LGBTQ people, and political activists of all backgrounds. Bias, accuracy issues, and stereotypes built into biometric surveillance systems pose a threat to Californians.

WHEREAS, the City Council recognizes the emerging need to protect the public safety, privacy and civil rights of their residents, a growing number of local governments have adopted laws that prohibit the use of facial recognition and other biometric surveillance technology. More than half a dozen U.S. cities, including Oakland, Berkeley, and San Francisco have passed bans on the government use of facial recognition.

SECTION 1. Article ##### is hereby added to ##### Municipal Code to read as follows:

(a) It shall be unlawful for any City Department to obtain, retain, access, or use:

- (1) facial recognition technology; or
- (2) any information obtained from facial recognition technology.

(b) A City Department’s inadvertent or unintentional receipt, retention access to, or use of any information obtained from facial recognition technology shall not be a violation of this subsection, provided that:

(1) The City Department does not request or solicit its receipt, access to, or use of such information; and

(2) The City Department creates a log of such receipt, access to, or use and within seven days of the event, submits that log to the City Council for inclusion in the City Council's subsequent Regular Meeting Agenda.

(b) "Facial recognition technology" means an automated or semi-automated process that assists in identifying or verifying an individual, or captures information about them, based on the physical characteristics of an individual's face.

(c) "City Department" means any City department and its officers and employees.

(d) Any violation of this Article 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 Article. An action instituted under this paragraph shall be brought against the City of #####.

(e) No data collected or derived from any use of facial recognition in violation of this Article, and no evidence derived therefrom, may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of [name of government unit]. Data collected or derived in violation of this law shall be considered unlawfully obtained, and shall be deleted upon discovery.

(f) A court shall award costs to the prevailing plaintiff in any action brought to enforce this Article and any reasonable attorney's fees as may be awarded pursuant to State law.