

SURVEILLANCE TOOLKIT: MODEL LEGISLATION TO FORM A PRIVACY ADVISORY COMMISSION

This is model legislation that your community can customize and that your local City Council could adopt to form a Privacy Advisory Commission, based on the legislation that formed Oakland's own Commission of this type. This is just a model and a starting point: you should decide on a set of duties and a Commission composition that matches your City's needs.

ORDINANCE NO. _____

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

**OF THE ##### MUNICIPAL CODE ESTABLISHING A COMMUNITY PRIVACY
ADVISORY COMMISSION, PROVIDING FOR THE APPOINTMENT OF MEMBERS
THEREOF, AND DEFINING THE DUTIES AND FUNCTIONS OF SAID COMMISSION**

SECTION 1. ESTABLISHMENT

Pursuant to the Charter of the City of **YOUR CITY**, there is hereby created an **YOUR CITY** Privacy Advisory Commission (hereinafter referred to as the "Privacy Commission" or "Commission").

SECTION 2. DUTIES AND FUNCTIONS

It shall be the duty and function of the Privacy Commission to:

- (a) Provide advice and technical assistance to the City of **YOUR CITY** on best practices to protect the privacy and civil rights of residents in connection with the City's purchase and use of surveillance equipment and other technology that collects, analyzes, processes, or stores information about the residents of **YOUR CITY**.
- (b) Conduct meetings and use other public forums to collect and receive public input on the above subject matter.
- (c) Draft for City Council consideration, model legislation relevant to the above subject matter, including, but not limited to, a Surveillance Technology Ordinance.
- (d) Submit annual reports and recommendations to the City Council regarding: (1) the City's use of surveillance equipment, and (2) whether new City surveillance equipment privacy and data retention policies should be developed or such existing policies be amended.
- (e) Provide analyses to the City Council of pending federal, state and local legislation relevant to the City's purchase and/or use of technology that collects, stores, transmits, handles or processes the information of residents.
- (f) The Privacy Commission shall make reports, findings and recommendations either to the City Administrator or the City Council, as appropriate. An annual report will be presented in writing to the City Council. The Commission may submit recommendations to the City Council following submission to the City Administrator.

SECTION 3. MEMBERSHIP AND QUORUM

(a) The Commission shall consist of nine (9) members, at least six (6) of whom are **YOUR CITY** residents. Pursuant to Section 601 of the Charter, members of the Commission shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council. Each Councilperson may recommend, shall nominate for the Mayor's consideration, his/her own recommendation or selection for Commission member.

(b) Five (5) members shall constitute a quorum.

(c) Each commission member shall serve as a volunteer without pay.

(d) The members shall be appointed to overlapping terms of three (3) years beginning on March 15th of each year and ending on March 15th three years later, or until a successor is appointed and confirmed, pursuant to Section 601 of the City Charter. An appointment to fill a vacancy shall be for the unexpired term only. To assure that terms overlap, appointments shall be as follows: three (3) initial members will serve a three-year initial term, three (3) initial members will serve a two-year initial term, and the other three (3) initial members will serve a one-year initial term.

(e) In the event an appointment to fill a vacancy has not occurred by the expiration of a member's term, that member may remain in a holdover capacity for up to one year, only following the expiration of his or her term or until a replacement is appointed, whichever is earlier.

(f) No member of the Privacy Commission shall serve more than three (3) consecutive terms.

(g) All members of the Privacy Commission shall be persons who have an interest in privacy rights as demonstrated by work experience, being a member of a group impacted by historical surveillance, civic participation, and/or political advocacy. No member may be an elected official.

(h) No member may have a financial interest, employment, or policy-making position in any commercial or for-profit facility, research center, or other organization that sells surveillance equipment or profits from decisions made by the Commission.

SECTION 4. VACANCY AND REMOVAL

(a) A vacancy on the Privacy Commission will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within 60 days of appointment. Vacancies shall be filled for any unexpired term provided, however, that if the Mayor does not submit for confirmation a candidate to fill the vacancy within 90 days of the date the vacancy first occurred, the Council may fill the vacancy. If the Mayor does submit for confirmation a candidate to fill a vacancy within the 90-day time frame and the Council does not confirm the candidate, the 90-day period shall commence anew. For purposes of this Section, a seat filled by a holdover appointment will be considered vacant as of the expiration of the holdover's prior term of office.

(b) A member may be removed for cause, after a hearing, by the affirmative vote of at least six (6) Council members.

SECTION 5. COMMISSION GOVERNANCE

a. OFFICERS AND ELECTIONS

At the first regular meeting, and subsequently at the first regular meeting of each year, members of the Privacy Commission shall elect a chairperson and a vice chairperson.

b. MEETINGS AND VOTING

The Privacy Commission shall meet at an established regular interval, day of the week, time, and location suitable for its purpose. Such meetings shall be designated regular meetings. Other meetings scheduled for a time or place other than the regular day, time and location shall be designated special meetings. Written notice of special meetings shall be provided to the Privacy Commission members, and all meetings of the Commission shall comport with any City or State open meetings laws, policies, or obligations. The Privacy Commission shall, in consultation with the City Administrator, establish bylaws, rules and procedures for the conduct of its business by a majority vote of the members present. Voting shall be required for the adoption of any motion or resolution. Any action by the Commission shall be approved by a majority of members present, provided a quorum exists.

c. STAFF

Staff assistance may be provided to the Privacy Commission as determined by the City Administrator, pursuant to his or her authority under the Charter to administer all affairs of the City under his or her jurisdiction.

SECTION 6. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 7. CODIFICATION

The City Clerk shall codify this ordinance upon approval of the code numbering as to form by the City Attorney.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall be effective upon the seventh day after final adoption.