

ORDINANCE NO. C - \_\_\_\_\_

AN ORDINANCE relating to the City of Spokane'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 adopting a new chapter 1.08 to title 1 of the Spokane Municipal Code.

WHEREAS, the previous installation of video cameras by the City on City property and facilities 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 and dashboard video cameras in police vehicles, the benefits of such technologies should be balanced with the need to protect privacy and anonymity, free speech and association, and equal protection; 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, City departments should also develop protocols for retaining, storing, and accessing data captured by surveillance equipment consistent with state law; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new chapter 1.08 to title 1 of the Spokane Municipal Code to read as follows:

**Chapter 1.08**  
**Acquisition and Use of Surveillance Equipment**

625-6271 Barbara D. H. H.

Sections:

- 1.08.010 Definitions
- 1.08.020 Council Approval for City Department Acquisition and Operations of Surveillance Equipment
- 1.08.030 Data Management Protocols for Surveillance Equipment
- 1.08.040 Acquisition and Use of Surveillance Equipment Related to Law Enforcement Investigations
- 1.08.050 Prior Use of Surveillance Equipment

**SMC 1.08.010 Definitions**

The following definitions apply to this chapter 1.08 SMC.

- A. "Data management protocols" generally means procedures governing how data collected by surveillance equipment will be retained, stored, indexed and accessed. Information comprising data management protocols includes, at a minimum, the information required in SMC 1.08.030.
- B. "Operational protocols" generally means procedures governing how and when surveillance equipment may be used and by whom. Information comprising operational protocols includes, at a minimum, the information required in SMC 1.08.020.
- C. "Surveillance equipment" means equipment capable of capturing or recording data, including images, videos, photographs or audio operated by or at the direction of a City department that may deliberately or inadvertently capture activities of individuals on public or private property, regardless of whether "masking" or other technology might be used to obscure or prevent the equipment from capturing certain views. "Surveillance equipment" includes drones or unmanned aircraft and any attached equipment used to collect data. "Surveillance equipment" does not include:
  - 1. a handheld or body-worn device used by law enforcement,
  - 2. a camera installed in or on a police vehicle,
  - 3. a camera installed in or on any vehicle, such as fire trucks, emergency vehicles, utility vehicles and street maintenance vehicles intended for the safe operation of the vehicles;
  - 4. a camera installed along a public right-of-way intended to record traffic patterns and/or traffic violations,
  - 5. a camera intended to record activity inside or at the entrances to City buildings for security purposes,

6. a camera installed to monitor and protect the physical integrity of City infrastructure, such as City fire stations and utility service facilities.

**SMC 1.08.020 City Council Approval for City Department Acquisition and Operations of Surveillance Equipment**

A. Any City department intending to acquire surveillance equipment shall obtain city council approval pursuant to a resolution prior to acquisition. Prior to deployment or installation of the surveillance equipment, City departments shall obtain city council approval pursuant to a resolution of operational protocols, unless applicable operational protocols were previously approved by a resolution. In requesting approval for acquisition of surveillance equipment, City departments shall include proposed operational protocols containing the following information for the city council's consideration, along with any other information specifically requested by the city council:

1. A clear statement describing the purpose and use of the proposed surveillance equipment.
2. The type of surveillance equipment to be acquired and used.
3. The intended specific location of such surveillance equipment if affixed to a building or other structure.
4. How and when a department proposes to use the surveillance equipment, such as whether the equipment will be operated continuously or used only under specific circumstances, and whether the equipment will be installed permanently or temporarily.
5. A description of the privacy and anonymity rights affected and a mitigation plan describing how the department's use of the equipment will be regulated to protect privacy, anonymity, and limit the risk of potential abuse.
6. A description of how and when data will be collected and retained and who will have access to any data captured by the surveillance equipment.
7. The extent to which activity will be monitored in real time as data is being captured and the extent to which monitoring of historically recorded information will occur.
8. A public outreach plan for each community in which the department intends to use the surveillance equipment that includes opportunity for public meetings, a public comment period, and written agency response to these comments.

9. If a department is requesting to acquire or use drones or other unmanned aircraft, it shall propose the specific circumstances under which they may be deployed, along with clearly articulated authorization protocols.
  10. If more than one department will have access to the surveillance equipment or the data captured by it, a lead department shall be identified that is responsible for maintaining the equipment and ensuring compliance with all related protocols. If the lead department intends to delegate any related responsibilities to other departments and city personnel, these responsibilities and associated departments and personnel shall be clearly identified.
  11. Whether a department intends to share access to the surveillance equipment or the collected data with any other government entity.
  12. A description of the training to be provided to operators or users of the surveillance equipment.
- B. Upon review of the information required under this section, and any other information deemed relevant by the city council, the city council may approve the acquisition and operation of surveillance equipment, approve the acquisition of surveillance equipment and require future city council approval for operations, deny the acquisition or use of surveillance equipment for the purpose proposed, or take other actions.

#### **1.08.030 Data Management Protocols for Surveillance Equipment**

- A. Prior to operating surveillance equipment acquired after the effective date of this chapter, City departments shall submit written protocols for managing data collected by surveillance equipment to the city council. The city council may require that any or all data management protocols required under this section be approved by resolution. These data management protocols shall address the following:
1. The time period for which any data collected by surveillance equipment will be retained.
  2. The methods for storing recorded information, including how the data is to be labeled or indexed. Such methods must allow for the department personnel to readily search and locate specific data that is collected and determine with certainty that data was properly deleted, consistent with applicable law.

3. How the data may be accessed, including who will be responsible for authorizing access, who will be allowed to request access, and acceptable reasons for requesting access.
4. A viewer's log or other comparable method to track viewings of any data captured or collected by the surveillance equipment, including the date, time, the individuals involved, and the reason(s) for viewing the records.
5. A description of the individuals who have authority to obtain copies of the records and how the existence and location of copies will be tracked.
6. A general description of the system that will be used to store the data.
7. A description of the unit or individuals responsible for ensuring compliance with SMC 1.08.030 and when and how compliance audits will be conducted.

**1.08.040 Acquisition and Use of Surveillance Equipment Related to Law Enforcement Investigations**

Notwithstanding the provisions of this chapter, City departments may acquire or use surveillance equipment (excluding drones) that is used on a temporary basis for criminal investigative purposes or pursuant to a lawfully issued search warrant, or under exigent circumstances as defined in case law. The provisions of this chapter shall not apply to surveillance equipment installed on park property under the jurisdiction of the park board and library property under the jurisdiction of the library board of trustees. The exemptions from the provisions of this chapter set forth above do not apply to surveillance cameras mounted on drones or other unmanned aircraft.

**1.08.050 Prior Use of Surveillance Equipment**

- A. Unless the city council previously approved operational protocols by resolution for department surveillance equipment, each City department operating surveillance equipment prior to the effective date of this ordinance shall propose written operational protocols consistent with SMC 1.08.020 no later than thirty days following the effective date of this chapter for city council review and approval by ordinance.
- B. Each department operating surveillance equipment prior to the effective date of this chapter shall adopt written data management protocols consistent with SMC 1.08.030 no later than thirty days following the effective date of this chapter and submit these protocols to the city council for review and possible approval by resolution

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Section 2. Following one year after the effective date of this ordinance, the city council will review its implementation as it applies to city department use of surveillance equipment.

PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2013.

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Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date