INTRODUCED: \_\_\_(Date)\_\_\_\_\_\_\_\_\_

AN ORDINANCE No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To amend Chapter \_\_\_\_, Article \_\_\_\_ of the Code of the City of \_\_\_\_\_\_\_\_\_\_\_\_ for the purpose of requiring approval of City Council prior to the purchase of any surveillance technology by an agency of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Patron – \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Approved as to form and legality

By the City Attorney

PUBLIC HEARING: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

THE CITY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ HEREBY ORDAINS:

§ 1. That Chapter \_\_\_\_\_, Article \_\_\_\_\_, Div. \_\_\_\_\_\_\_\_\_\_ Sec. \_\_\_\_\_\_\_\_\_\_ of the Code of Ordinances be and is hereby amended and reordained by **adding therein** new definitions as follows:

**Sec. \_\_\_\_\_\_\_\_. – Definitions.**

**…**

*Surveillance data* shall mean any electronic data collected, captured, recorded, retained, processed, intercepted, analyzed, or shared by surveillance technology.

*Surveillance technology* shall mean any electronic surveillance device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.

§ 3. That Chapter \_\_\_\_\_, Div. \_\_\_\_\_\_\_\_ Article \_\_\_\_\_\_\_ of the Code of Ordinances be and is hereby amended and reordained by **adding therein** a new section numbered \_\_\_\_\_\_\_ as follows:**Sec. \_\_\_\_\_\_\_. - Purchase of Surveillance Technology.**

1. Every city department or agency must obtain City Council approval prior to:
   1. Seeking funds for new surveillance technology, including but not limited to applying for a grant, or soliciting or accepting state or federal funds or in-kind or other donations;
   2. Acquiring or borrowing new surveillance technology, whether or not that acquisition is made through the exchange of monies or other consideration;
   3. Using new or existing surveillance technology for a purpose or in a manner not previously approved by the City Council in accordance with this Ordinance; or
   4. Soliciting proposals for or entering into an agreement with any other person or entity to acquire, share or otherwise use surveillance technology or surveillance data.
2. As a part of the process of seeking City Council approval, pursuant to Sec 21-10 (a), to fund, acquire, or use surveillance technology or to enter into an agreement concerning such funding, acquisition, or use, a department or agency shall submit to City Council a Surveillance Impact Report and Surveillance Use Policy, according to Sec. 21-10 (c) and (d), and shall provide the following
   1. Upon submitting a Surveillance Impact Report and Surveillance Use Policy to the City Council, the department or agency shall make both documents available to the public on its public website.
   2. Within ten (10) days of receiving a surveillance technology approval request, the City Council shall make the related Surveillance Impact Report and Surveillance Use Policy publicly available, in print and on its public website.
   3. Within twenty-one (21) days of submitting a Surveillance Impact Report and Surveillance Use Policy, the department or agency shall hold at least one public meeting in accordance with Va. Code § 2.2-3707 at which the general public is invited to discuss and ask questions regarding the surveillance technology approval request submitted to City Council.
   4. The City Council, or its appointed designee, shall continue to make the Surveillance Impact Report and Surveillance Use Policy, and updated versions thereof, available to the public online as long as the department or agency continues to utilize the surveillance technology in accordance with a surveillance technology approval request submitted pursuant to this section.
3. Each Surveillance Impact Report submitted to City Council shall contain the following:
   1. Information describing the surveillance technology and how it works, including product descriptions from manufacturers.
   2. Information on the proposed purpose(s) for the surveillance technology.
   3. The fiscal impact of the surveillance technology, including but not limited to:
      1. Initial acquisition costs;
      2. Ongoing operational costs such as personnel, legal compliance, use auditing, data retention and security costs;
      3. Any cost savings that would be achieved through the use of the technology; and
      4. Any current or potential sources of funding.
4. A Surveillance Use Policy submitted to City Council shall govern the department or agency’s use of the surveillance technology and shall include the following:
   1. Purpose: What specific purpose(s) that the surveillance technology is intended to advance.
   2. Use of Technology: Clearly stated procedures governing when employees or agents of the department or agency may use the surveillance technology.
   3. Data Retention: Clearly stated policies governing how data is stored and how long such data is stored.
   4. Data Access: Clearly stated policies governing individual and public access to data collected by the surveillance equipment.
   5. Compliance: Clearly stated policies governing consequences of failure by employees to comply with provisions of policies.
5. No use of surveillance technology by a department or agency shall be permitted without the City Council’s express approval of the related Surveillance Impact Report and Surveillance Use Policy submitted by the department or agency.
6. No later than one hundred twenty (120) days following the effective date of this Ordinance, any department or agency seeking to continue the use of any surveillance technology that was in use prior to the effective date of this Ordinance must commence a City Council approval process in accordance with this Ordinance. The department or agency shall cease the use such surveillance technology until City Council approval is obtained in accordance with this Ordinance.
7. If more than one department or agency will have access to the surveillance technology or surveillance data, a lead department or agency shall be identified. The lead department or agency shall be responsible for maintaining the surveillance technology and ensuring compliance with all applicable laws, regulations and policies. If the lead department or agency intends to delegate any related responsibilities to other governmental agencies, departments, bureaus, divisions, units, or personnel, these responsibilities and associated entities and/or personnel shall be clearly identified.
8. Each department or agency operating surveillance technology shall maintain records of each use of such surveillance technology, including the date, time, location of use, target of data collection, type of data collected; the justification for the use, the operator of the surveillance technology, the person who authorized the use, and certification, by such person authorizing its use, that the use complies with Va. Code § 19.2, Chapter 6.
9. Any information captured by surveillance technology shall be subject to the *Virginia Freedom of Information Act* (Va. Code § 2.2-3700 et seq.) and any applicable exceptions to release; however, as a matter of policy, departments or agencies shall release all information not directly relevant to an ongoing criminal investigation. Personally identifiable information should be redacted to the extent required by the *Virginia Government Data Collection and Dissemination Practices Act* (Va. Code § 2.2-3800 et seq.) or other applicable data privacy laws.
10. Each department or agency operating surveillance technology shall conduct an annual comprehensive audit on the operation of all surveillance technology, including the law-enforcement log book, corresponding emergency telephone calls, warrants, and other documentation of the justification for use and data collected. The audit shall be publically available. The audit shall include:
    1. The number of uses of surveillance technology organized by types of technology, types of incidents, and types of justification for use.
    2. The number of crime investigations aided by the use and how the use was helpful to the investigation.
    3. The number of uses of surveillance technology for reasons other than criminal investigations and how the use was helpful.
    4. The frequency and type of data collected for individuals or areas other than targets.
    5. The total cost of the surveillance technology.
    6. The data collected in accordance with Sec. 21-10 (h).
    7. Additional information and analysis City Council deems useful.
11. City Council shall, upon completion of the publicly available annual audit on the use of surveillance technology, review the use of such surveillance technology and consider both the benefits and risks to privacy before authorizing the continued operation of such surveillance technology in such locality.

§ 3. This ordinance shall be in force and effect upon adoption