

Order 72-19/20

Motion to postpone to January 6, 2020: 7-1 (Batson opposed, Cook absent) on 11/18/2019

Motion to postpone to June 15, 2020: 9-1 on 1/6/2020

Motion to postpone to July 13, 2020: 9-0 on 6/15/2020

Motion to amend by approving Councilor Ali's Amendment: 9-0 on 8/3/2020

Motion to amend by approving Amendment 2, Staff Amendment: Passage 7-2 (Ali, Cook)

Passage as amended: 9-0 on 8/3/2020

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO THE PORTLAND CITY CODE CHAPTER 17  
RE: FACIAL RECOGNITION TECHNOLOGY PROHIBITION**

**WHEREAS**, the residents of the City of Portland value privacy as an essential element of their individual freedom; and

**WHEREAS**, facial recognition technology and other biometric surveillance technology pose unique and significant threats to the civil rights and civil liberties of residents and visitors; and

**WHEREAS**, the use of facial recognition technology and other biometric surveillance is the functional equivalent of requiring every person to show a personal photo identification card at all times in violation of rights guaranteed by the First, Fourth, and Fourteenth Amendments to the United States Constitution; and

**WHEREAS**, this technology allows people to be tracked without consent, generating databases about law-abiding Portlanders that may chill the exercise of free speech in public places; and

**WHEREAS**, facial recognition and other biometric surveillance technology has been repeatedly demonstrated to misidentify women, young people, and people of color and to create an elevated risk of harmful "false positive" identifications; and

**WHEREAS**, facial recognition and other biometric surveillance would corrupt the core purpose of officer-worn body-

worn cameras by transforming those devices from transparency and accountability tools into roving surveillance systems; and

**WHEREAS**, the use of facial recognition and other biometric surveillance would disproportionately impact the civil rights and liberties of persons who live in highly policed neighborhoods, and its use would diminish effective policing and public safety by discouraging people in these communities, including victims of crime, undocumented persons, people with unpaid fines and fees, and those with prior criminal history from seeking police assistance or from assisting the police;

**NOW, THEREFORE, BE IT ORDERED**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, that the Portland City Code is hereby amended by adding an Article, to be numbered XI, which said Article reads as follows:

**ARTICLE XI. FACIAL RECOGNITION TECHNOLOGY**

**Sec. 17-129. Purpose.**

The purpose of this Article to protect the privacy and civil liberties of the residents of the City of Portland.

**Sec. 17-130. Definitions.**

For the purposes of this Article, the following terms have the following meanings:

Face surveillance 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 their face.

Face surveillance system means any computer software or application that performs face surveillance.

City of Portland means any department, agency, bureau, and/or subordinate division of the City of Portland.

City of Portland official means any person or entity acting on behalf of the City of Portland, including any officer, employee, agent, contractor, subcontractor, or vendor.

**Sec. 17-131. Facial Recognition Technology Prohibition.**

It shall be unlawful for the City of Portland or any City of Portland official to:

(a) Obtain, retain, store, possess, access, use, or collect:

1. any face surveillance system; or
2. any data or information derived from a face surveillance system or other use of face surveillance;

(b) Enter into a contract or other agreement with any third party for the purpose of obtaining, retaining, storing, possessing, accessing, using, or collecting, by or on behalf of the City of Portland or any City of Portland official:

1. any face surveillance system; or
2. any data or information derived from a face surveillance system or other use of face surveillance; or

(c) Issue any permit or enter into a contract or other agreement that authorizes any third party to obtain, retain, store, possess, access, use, or collect:

1. any face surveillance system; or
2. any data or information derived from a face surveillance system or other use of face surveillance.

**Sec. 17-132. Enforcement.**

Any City employee who violates a provision of this Article may be subject to discipline in accordance with the City's disciplinary policies and procedures and applicable collective bargaining agreements.

**Sec. 17-132. Exceptions and Safe Harbors**

Nothing in this article shall be construed to:

(a) limit any individual's rights under state or federal law;

(b) prohibit the use of an automated or semiautomated process for the purpose of redacting a recording for release or disclosure to protect the privacy of a subject depicted in the recording;

(c) prohibit the use of facial recognition or similar biometric technique on privately owned consumer devices for personal use or security, or for commercial use or security; or

(d) prohibit the use of facial recognition or similar biometric technique in managing secure entry or access to restricted buildings, rooms, or other secure spaces, devices, or things, provided that:

1. any data or information derived from such a system is only obtained, retained, stored, possessed, accessed, used, or collected with the knowledge and consent of any person authorized for such entry or access; and

2. no data or information derived from such a system about any persons not authorized for such entry or access may be obtained, retained, stored, possessed, accessed, used, or collected.