ORDINANCE NO. 2020-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ ADDING CHAPTER 9.85 “SURVEILLANCE TECHNOLOGY” TO ARTICLE 9 “PEACE, SAFETY AND MORALS” OF THE SANTA CRUZ MUNICIPAL CODE

WHEREAS, the City Council desires to have an informed public debate about decisions related to surveillance technology.

WHEREAS, whenever possible, decisions relating to surveillance technology should occur with strong consideration given to the impact that such technologies may have on civil rights and civil liberties.

WHEREAS, currently, the propensity for Face Recognition Technology and Predictive Policing Technology to endanger civil rights and civil liberties outweighs these technologies’ purported benefits.

WHEREAS, currently, Face Recognition Technology and Predictive Policing Technology appear to have the propensity to potentially exacerbate racial injustice.

WHEREAS, the City Council finds that Face Recognition Technology and Predictive Policing Technology currently lack the protections needed to adequately safeguard the rights and liberties of all people.

WHEREAS, the City Council supports, approves, and hereby establishes a temporary, ad hoc advisory committee of councilmembers, to be comprised of Mayor Cummings and two other councilmembers. This ad hoc committee is hereby tasked with returning to the City Council with recommendations for police reform measures to address racial equity and social justice in policing. The committee shall seek opinions and advice from the Chief of Police and from the local community, including the African American and Latinx communities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA CRUZ DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.85 “Surveillance Technology Ordinance” is hereby added to Article 9 “PEACE, SAFETY AND MORALS” of the City of Santa Cruz Municipal Code to read as follows:

9.85.010 PURPOSE AND INTENT OF CHAPTER.

This Chapter shall be known as the Surveillance Technology Ordinance.

The purpose and intent of this Chapter is to prohibit the City’s acquisition and/or use of Face Recognition Technology and Predictive Policing Technology, prior to obtaining City Council approval, by resolution, based on the City Council’s finding that the technology meets
scientifically validated and peer reviewed research, protects and safe guards the civil rights and liberties of all people, and will not perpetuate bias.

9.85.020 DEFINITIONS.

For purposes of this Chapter, the following words, terms, and phrases shall have these definitions:

A. “City Department” means any City department and its officers and employees.

B. "Face Recognition Technology" means an automated or semi-automated process that assists in identifying or verifying an individual based on an individual's face.

C. “Predictive Policing Technology” means software that is used to predict information or trends about crime or criminality in the past or future, including but not limited to the characteristics or profile of any person(s) likely to commit a crime, the identity of any person(s) likely to commit crime, the locations or frequency of crime, or the person(s) impacted by predicted crime.

9.85.030 PROHIBITION ON CITY’S ACQUISITION OR USE OF PREDICTIVE POLICING TECHNOLOGY AND FACE RECOGNITION TECHNOLOGY.

A. Notwithstanding any other provision of this Chapter, it shall be unlawful for any City Department to obtain, retain, access, or use Predictive Policing Technology and/or Face Recognition Technology prior to obtaining City Council approval, by resolution, based on the City Council’s finding that the technology meets scientifically validated and peer reviewed research, protects and safe guards the civil rights and liberties of all people, and will not perpetuate bias.

B. City staff’s inadvertent or unintentional receipt, access of, or use of any information obtained from Predictive Policing Technology or Face Recognition Technology shall not be a violation of this Section provided that: (1) City staff did not request or solicit the receipt, access of, or use of such information, and (2) City staff logs such receipt, access, or use and publishes that information on the City Council’s website within thirty (30) days or in the agenda for the next regular meeting of the City Council. Such report shall not include any personally identifiable information or other information the release of which is prohibited by law.

9.85.040 ENFORCEMENT

Any City resident or other person injured by a violation of this Chapter may institute proceedings for injunctive relief or writ of mandate in any court of competent jurisdiction to enforce this Chapter. An action instituted under this paragraph may be brought against the City of Santa Cruz, if necessary to effectuate compliance with this Chapter (including to expunge information unlawfully collected, retained, or shared thereunder). Prior to the initiation of any legal proceeding, the City of Santa Cruz shall be given written notice of the alleged violation(s) and an opportunity to correct such alleged violation(s) within 90 days of receipt of the notice. If the
alleged violation is substantiated and subsequently cured, a notice shall be posted in a conspicuous space on the City’s website that generally describes the corrective measure(s) taken to address the violation(s).

9.85.050 SEVERABILITY

The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section, or portion of this Chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances. Nothing in this Chapter is intended to, or shall be interpreted to, conflict with the Constitution of the United States, the Constitution of the State of California or with any State or federal law.

SECTION 2. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law.

SECTION 3. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after the date of its final passage and adoption.

PASSED FOR PUBLICATION this 23rd day of June, 2020, by the following vote:

AYES: Councilmembers Beiers, Mathews, Brown, Golder, Watkins; Vice Mayor Meyers; Mayor Cummings.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: ______________________________

Justin Cummings, Mayor

ATTEST: _________________________________

Bonnie Bush, City Clerk Administrator
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PASSED FOR FINAL ADOPTION this 11th day of August, 2020 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: ______________________________
Justin Cummings, Mayor

ATTEST: _________________________________
Bonnie Bush, City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2020-17 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

________________________________
Bonnie Bush, City Clerk Administrator