

**ORDINANCE NO. 07-22**

**An Ordinance Banning Government Use of Facial-Recognition Surveillance Technology**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, TIPPECANOE COUNTY

This ordinance shall be in effect from and after its passage by the Common Council of the City of West Lafayette and execution by the Mayor and due publication.

The following sections are added to the West Lafayette City Code effective upon due passage:

**Section. Banning the usage of facial-recognition surveillance technology.**

(a) Definitions.

1. *Facial-recognition surveillance* shall mean an automated or semi-automated process that is capable of matching a human face from a digital image or video frame against a database of known images by identifying and measuring facial features.
2. *Facial-recognition surveillance system* shall mean any computer software or application that performs facial-recognition surveillance.
3. *West Lafayette official* shall mean any person or entity acting on behalf of the City of West Lafayette, including any officer, employee, agent, contractor, subcontractor, or vendor.
4. *Outside agency* shall mean a federal, state, or local government or law enforcement agency engaged in its official duties.

(b) Ban on Government Use of Facial-Recognition Surveillance Technology.

Unless otherwise provided in this ordinance, it shall be unlawful for any department, agency, bureau, and/or subordinate division of the City of West Lafayette or any West Lafayette official to use or solicit the use of:

- (a) Any facial-recognition surveillance system; or
- (b) Any information obtained from a facial-recognition surveillance system.

(c) Exceptions.

(1) This ordinance does not prevent the use or soliciting the use of facial-recognition surveillance or a facial-recognition surveillance system when:

(A) A West Lafayette official is investigating or assisting in the investigation of the commission of a "crime of violence" as defined by I.C. 35-50-1-2;

(B) The West Lafayette official signs a sworn affidavit affirming that a “crime of violence” has occurred and that the official reasonably believes the use of facial-recognition surveillance or a facial-recognition surveillance system would assist in the identification of:

(i) A person who committed the offense;

(ii) Assisted in committing the offense; or

(iii) Has material information or evidence pertaining to the commission of the offense; and

(C) The affidavit referred to in subsection (c)(1)(B) has been filed with the West Lafayette City Court.

(2) This ordinance does not prevent a West Lafayette official from assisting an outside agency with any official investigation that involves the use of facial-recognition surveillance or a facial-recognition surveillance system provided such use was conducted outside the jurisdiction of the City of West Lafayette and without the assistance or participation of a West Lafayette official.

(3) This ban is only in effect when a member of the department, agency, bureau, and/or subordinate division of the City of West Lafayette or any West Lafayette official knowingly obtains, retains, accesses, or uses any facial-recognition surveillance system or any information obtained from a facial-recognition surveillance system or could be reasonably expected to know that the information was obtained from a facial-recognition surveillance system.

(d) Enforcement.

1. *Suppression*: No data collected or derived from any use of facial-recognition surveillance in violation of this ordinance and no evidence derived therefrom may be received in evidence in any proceeding in or before any department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of the City of West Lafayette.
2. *Cause of Action*: Any violation of this Ordinance constitutes an injury, and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this Ordinance. An action instituted under this paragraph shall be brought against the City and, if necessary to effectuate compliance with this Ordinance, any other governmental agency with possession, custody, or control of data subject to this Ordinance.
3. The City will address alleged violations of this ordinance in accordance with its usual practices, applicable law, and contractual obligations.

Nothing in this section shall be construed to limit any individual's rights under State or Federal law.

INTRODUCED ON FIRST READING ON THE 2 DAY OF May, 2022.


MOTION TO ADOPT MADE BY COUNCILOR DeBoer, AND SECONDED BY COUNCILOR Kang.

THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE 2 DAY OF May, 2022, FAILED TO PASS THIS ORDINANCE BY A VOTE OF 2 IN FAVOR, 6 OPPOSED, 1 ABSTENTION, THE ROLL CALL VOTE BEING:

	AYE	NAY	ABSENT	ABSTAIN
Blanco				✓
Brown		✓		
Bunder		✓		
DeBoer		✓		
Kang	✓			
Leverenz		✓		
Parker		✓		
Sanders	✓			
Thomas		✓		

  
Peter Bunder, Presiding Officer

Attest:

  
Sana G. Booker, Clerk

PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Sana G. Booker, Clerk

THIS ORDINANCE APPROVED AND SIGNED BY ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
John R. Dennis, Mayor

Attest:

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Sana G. Booker, Clerk