

BAN ON TOWN USE OF FACE SURVEILLANCE

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TMM Precinct 12

To see if the Town will adopt the following version of a new Article 8.39 of the Town By-Laws,

ARTICLE 8.39

BAN ON TOWN USE OF FACE SURVEILLANCE

SECTION 8.39.1 DEFINITIONS

1. "Face surveillance" shall mean an automated or semi-automated process that assists in identifying an individual, or in capturing information about an individual, based on the physical characteristics of an individual's face.
2. "Face surveillance system" shall mean any computer software or application that performs face surveillance.
3. "Brookline" shall mean any department, agency, bureau, and/or subordinate division of the Town of Brookline.
4. "Brookline official" shall mean any person or entity acting on behalf of Brookline, including any officer, employee, agent, contractor, subcontractor, or vendor.

SECTION 8.39.2 BAN ON TOWN USE OF FACE SURVEILLANCE

1. It shall be unlawful for Brookline or any Brookline official to:
 - a. obtain, possess, access, or use ~~(i) any face surveillance system, or (ii) information derived from a~~ face surveillance system;
 - b. enter into a contract or other agreement with any third party for the purpose of obtaining, possessing, accessing, or using, by or on behalf of Brookline or any Brookline official, ~~(i) any face surveillance system, or (ii) data derived from a~~ any face surveillance system; or
 - c. issue any permit or enter into a contract or other agreement that authorizes any third party to obtain, possess, access, or use (i) any face surveillance system, or (ii) information derived from a face surveillance system based on photographic, video or other images originally captured within the Town of Brookline.
2. Nothing in Section 8.39.2(1) shall prohibit Brookline or any Brookline official from:
 - a. obtaining or possessing (i) an electronic device, such as a cell phone or computer, for evidentiary purposes, or (ii) an electronic device, such as a cell phone or tablet, that performs face surveillance for the sole purpose of user authentication;
 - b. using face recognition on an electronic device, such as a cell phone or tablet, owned by Brookline or by such official, for the sole purpose of user authentication;

- c. using social media or communications software or application for communicating with the public, provided such use does not include the affirmative use of any face surveillance;
- c. using automated redaction software, provided such software does not have the capability of performing Face surveillance; or
- d. complying with the National Child Search Assistance Act.

SECTION 8.39.3 ENFORCEMENT

1. Face surveillance data collected or derived in violation of this By-Law shall be considered unlawfully obtained and shall be deleted upon discovery, subject to applicable law.
2. No data collected or derived from any use of face surveillance in violation of this By-Law and no evidence derived therefrom may be received in evidence in any Town proceeding.
3. Any violation of this By-Law 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 By-Law. An action instituted under this paragraph shall be brought against the respective Town department, and the Town and, if necessary to effectuate compliance with this By-Law, any other governmental agency with possession, custody, or control of data subject to this By-Law.
4. Violations of this By-Law by a Town employee shall result in consequences that may include retraining, suspension, or termination, subject to due process requirements and provisions of collective bargaining agreements.
5. Nothing in this Article shall be construed to limit any individual's rights under state or federal law.

SECTION 8.39.4 SEVERABILITY

If any portion or provision of this By-Law is declared invalid or unenforceable by a court of competent jurisdiction or by the Office of the Attorney General, the remaining provisions shall continue in full force and effect.

or act on anything relative thereto.