

DRAFT - Not For Public Release

An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Chapter, which New Chapter shall be designated as Chapter 25, Video Privacy, of Title I of said Code.

The City of Ann Arbor Ordains:

Section 1. That Chapter 25 of Title 1 of the Code of the City of Ann Arbor be adopted to read as follows:

Chapter 25 Video Privacy

1:900. Statement of intent.

- (1) It is the intent of this chapter to protect the privacy and safety of the public by regulating the use of public surveillance cameras. To ensure that public surveillance cameras are not used to inequitably monitor and harass individuals or groups, public surveillance cameras should only be used with the oversight of nearby residents and the general public. To preserve outdoor spaces where members of the public may be free from police monitoring, public surveillance cameras should only be used for limited time periods to address specific crimes.

1:901. Definitions.

For purposes of this ordinance the following definitions are adopted:

- (1) **Public surveillance camera.** The term public surveillance camera means any camera that the City of Ann Arbor uses to monitor human activity without the physical presence of an operator, including cameras on remotely operated aerial vehicles. It does not include:
- cameras used in the physical presence of the operator, such as hand-held police cameras
 - cameras in police cars when an operator is present or in the immediate vicinity.
 - Cameras necessary for carrying out a lawfully issued search warrant.
 - Cameras that the City operates for a public entertainment or recreation event, so long as those cameras are used only at that event, and only for the purpose of entertainment or marketing.
 - Cameras that the City operates to monitor pedestrian or traffic flow or to improve traffic design, so long as those cameras do not gather individualized pedestrian, vehicle, driver or passenger information such as license plate numbers.
 - Cameras operating in jails, prisons, Ann Arbor water or wastewater treatment facilities, transit stations, Ann Arbor public housing facilities, or the Ann Arbor Airport and its facilities.

Comment [j1]: I agree with this intent, but there are many restrictions within this ordinance that may have unintended consequences that go beyond this intent to affect future law enforcement abilities that may be effective and is not contrary to this intent.

Comment [SB2]: This is too limiting in situations such as graffiti. Permanent installation of cameras at sites that experience repeat graffiti problem may be warranted.

Comment [j3]: From Tom Crawford: 1:901 (1) – The stadium bridge was partially funded with a federal grant that requires a camera to monitor traffic & pedestrian flow. It's required for at least a couple of years. My read is this is not permissible per this paragraph. Separately, the ordinance has a list of city properties to exclude. Why not exclude all city facilities? What about the ones not listed, not yet built? The ordinance seems set-up to need constant modification. Mass transit areas are not addressed. Being able to record activity at bus, train, taxi stations could be useful in solving crimes but is not addressed.

Comment [j4]: Too vague as to what "present" means. An officer is often away from the vehicle and the recording needs to continue. Examples are Drunk Driven investigations or the need to continue recording when someone is in custody in the back seat of the police car

Comment [j5]: Councilmember Warpehoski's revision under the City Attorney's version is fine and takes care of this concern.

Comment [C.W.6]: Chief Seto had suggested language here, but I would like to avoid a loophole in which parking an unattended police cruiser becomes a loophole.

g. Cameras that monitor only the interior or outside perimeter of City of Ann Arbor governmental buildings, parking structures, or construction sites.

- (2) **City Administrator.** City Administrator means the City of Ann Arbor City Administrator and his or her designees.
- (3) **Outdoor parkland.** Outdoor parkland means land in a park, playground, golf course, cemetery or nature area, whether developed or undeveloped which is owned or otherwise controlled by the City, together with public bodies of water within or adjacent to such land. The interior and immediate exteriors of park buildings, facilities, and parking lots, including entranceways, are not outdoor parkland. Outside areas used for the storage of city-owned rental goods are also not outdoor parkland for the purposes of this definition for this chapter.
- (4) **Outside perimeter.** Outside perimeter means the city-owned land surrounding a City of Ann Arbor government building or parking structure. If the area surrounding a government building is outdoor parkland, the outdoor parkland is not part of the outside perimeter. Sidewalks leading to an entrance of a government building or parking structure are part of the outside perimeter.
- (5) **Visual range.** Visual range means the area in space that a camera records. If blocking technology is used to obscure a camera's view of an area in such a way that live-monitoring of the obscured area is impossible and no recording of the obscured area is made, then that area is not part of the camera's visual range.

Comment [C.W.7]: We can probably strike this phrase.

Comment [SB8]: This should include parking lots outside recreational facilities.

1:902. Unauthorized Public Surveillance Cameras.

The City shall not install, operate, or maintain public surveillance cameras except as provided in and pursuant to the procedures set forth in this ordinance. The City Administrator shall remove any public surveillance cameras that do not comply with the provisions of this ordinance.

1:903. Installation and Use of Short-Term Public Surveillance Cameras in Place for 15 Days or Less.

The City Administrator may install and operate a public surveillance camera in any area at any time for up to 15 days under the following conditions:

- (1) The public surveillance camera is targeting a specific threat or criminal problem. Large gatherings of people do not, by themselves, constitute specific threat.
- (2) The public surveillance camera does not have the interior of a residence in its visual range.
- (3) The public surveillance does not have outdoor parkland in its visual range, except under the following circumstances:

Comment [j9]: From Tom Crawford: 1:902 – one of the quality of life issues the city faces is tagging. Working on this issue involves deploying officers that could otherwise be spent performing duties related to public safety. This language seems to prevent a camera from being used to observe public space that could assist in apprehending a tagger when an incident has been reported. This is an example where cameras wouldn't be actively monitored but utilized when a crime is reported to make this a safer community.

Comment [j10]: What about targeting threats. As we have seen in Boston, large gatherings of people in public may pose more threats in the future. UM Football games, Art Fair, AA Marathon, Summer Festival and numerous other activities that draw large crowds to our downtown may pose threats. If cameras only monitor these non residential areas, the city should not have to follow all of these procedures.

Comment [j11]: Thank you for the addition, but from a law enforcement perspective, large gatherings of people may in itself constitute a threat or at least an increased risk. In threat assessment, large crowds increase risk.

(a) The public surveillance camera is addressing a criminal problem of aggravated assault, criminal sexual conduct, murder, robbery, arson, or burglary, or

(b) The public surveillance camera is addressing the destruction or theft of park property, and the visual range of the public surveillance camera is as narrowly limited to monitoring park property as is possible.

(4) The City Administrator complies with the public display requirements for all public surveillance cameras specified in 1:908.

(5) The City Administrator complies with the general requirements for use of all public surveillance cameras specified in 1:909.

(6) The City Administrator complies with the requirements for storage of recordings for all public surveillance cameras specified in 1:910.

1:904. Installation of Public Surveillance Cameras In Place for More Than 15 Days in Residential Areas.

If a public surveillance camera will be within 300 feet of a residence, or have a residence in its visual range, The City Administrator may not install or operate that public surveillance camera for more than 15 days, unless the following conditions have been met:

(1) (a) The City Administrator obtains the written permission of two thirds of all adult residents who reside within 300 feet of the proposed public surveillance camera or within the visual range of the public surveillance camera. If the City Administrator obtains the necessary written permission, the camera may be installed for up to six months. After every subsequent six month period, the City Administrator must either remove or deactivate the camera or again obtain written permission from two thirds of all adult residents who reside within 300 feet of the proposed public surveillance camera or within the visual range of the public surveillance camera in order to renew the public surveillance camera for up to an additional six months. Additionally, if the public surveillance camera is to be positioned in such a way that the inside of a private residence is in its visual range, the City Administrator must first obtain written permission from the adult residents of that property, or

(b) The City Administrator receives a request in the form of a written petition signed by two thirds of all adult residents who reside within 300 feet of the proposed public surveillance camera or within the visual range of the public surveillance camera. The petition shall state the specific criminal problem the public surveillance camera is intended to address. If the City Administrator receives such a petition, the camera may be installed for up to six months. After the initial six month period, all additional six month periods require a written

Comment [j12]: Same comment as above. What if the large crowd brings a threat such as a presidential visit or high profile quest to a city park.

Comment [j13]: I may have misspoke earlier, but indecent exposure is not categorized as a type of criminal sexual conduct and the offense of indecent exposure should be included because we have experience that these crimes do occur in our parks.

Comment [SB14]: Add narcotics (drug use) to these specifics.

Comment [j15]: This may contradict the purpose of short term cameras. I believe the purpose of "short term" surveillance cameras would be to catch the perpetrator of a specific crime or series of crimes. Requirements of 1:908 – public notice – may reduce the effectiveness of the short term cameras..

Comment [j16]: Same concern as above about monitoring of generally perceived public locations such as Main St. But there are residents that live above some business. If business owners want the city to install cameras, how do we balance the needs of the business owners with the residents who are the only ones that have a vote.

Comment [j17]: Same comment as above. What about business owners desire to have cameras installed.

Comment [j18]: Same comment as above about consideration to business owners.

petition signed by two thirds of all adult residents who reside within 300 feet of the proposed public surveillance camera or within the visual range of the public surveillance camera. If no subsequent petitions are made to the City Administrator the camera will be removed. Additionally, if the public surveillance camera is installed in such a way that the inside of a private residence is in its visual range, notice will be given to the adult residents of that property, and written permission from them will be obtained.

(2) The public surveillance camera's visual range does not include outdoor parkland.

1.90x. Installation of Public Surveillance Cameras In Place for More Than 15 Days in the Downtown Development District.

[Goal: create a DDA exemption that would allow surveillance cameras within 300 ft of a residence within the DDA either by complying with section 1:904 OR by flipping it from a 2/3 opt-in to a 1/3 opt out.]

Comment [j19]: From Tom Crawford - Since a lot of residential is vertical in the DDA area, how is the 300 ft anticipated to be implemented since it would not allow surveillance at the ground level in the public area. What's wrong with the standard that private residential properties should not surveyed even in the DDA? This could be achieved by black-out rather easily and keeps residents in DDA to same standard as outside DDA.

1:905. Notification for Public Surveillance Cameras in Place for More Than 15 Days in Residential Areas.

(1) Notification. Before obtaining written permission under Section 1:904(1)(a) from residents who live within 300 feet of the public surveillance camera or within its visual range, the City Administrator must publish a report to a publicly available website. A separate report must be filed for each public surveillance camera. This subsection shall not apply to public surveillance cameras installed pursuant to Section 1:904(1)(b).

(2) Contents of Report. The report required under subsection (1) shall contain the following:

- (a) the expected cost of the proposed public surveillance camera and monitoring system,
- (b) a description of the technical specifications and capabilities of the proposed public surveillance camera and the monitoring system to be used,
- (c) a description, including a drawing, diagram, or other pictorial representation, of the location and position of the proposed public surveillance camera and its visual range,
- (d) a description of the specific criminal problem that the public surveillance camera is addressing, and an evidence-based argument describing how the proposed public surveillance camera could be effective in solving the criminal problem.

(3) Advance Notice of Public Surveillance Cameras

(a) Before obtaining written permission under Section 1:904(1)(a) from residents who live within 300 feet of the public surveillance camera or within its visual range or before installation of such cameras pursuant to Section 1:904(1)(b) the City Administrator must mail notices:

(i) To the owners of each property within the visual range of the camera and to the owners of each property within 300 feet of the proposed public surveillance camera location as reflected on the latest records of the City Assessor.

(ii) To the residents of each property within the visual range of the camera and to the residents of each property within 300 feet of the proposed public surveillance camera.

(b) If a report is required under subsection (1), the notice required under this subsection shall include a copy of the report.

1:906. Installation of Public Surveillance Cameras in Place for More Than 15 Days in All Other Areas

If a public surveillance camera will not be within 300 feet of a residence and will not have a residence in its visual range, the City Administrator may install and operate that public surveillance camera for more than 15 days if the public surveillance camera's visual range does not include outdoor parkland.

Comment [SB20]: Why this distinction?

1:907. Notification for Public Surveillance Cameras in Place for More Than 15 Days in All Other Areas.

Comment [j21]: From Tom Crawford - I see the comments from Chuck indicating recreational use is permitted but how does that relate to this provision that seems to exclude cascades and ballfields? I think they'd both be considered outdoor parkland.

(1) Notification. Before installation of a public surveillance camera that will not have a residence in its visual range, will not be within 300 feet of a residence, and will be in place for more than 15 days, the City Administrator must publish a report to a publicly available website. A separate report must be filed for each public surveillance camera.

(2) Contents of Report. The report required under subsection (1) shall contain the following:

(a) the expected cost of the proposed public surveillance camera and monitoring system,

(b) a description of the technical specifications and capabilities of the public surveillance camera proposed to be installed and the monitoring system to be used,

- (c) a description, including a drawing, diagram, or other pictorial representation, of the location and position of the public surveillance camera, its visual range,
- (d) a description of the specific threat or criminal problem that the public surveillance camera is addressing, and an evidence-based argument describing how the proposed public surveillance camera could be effective in solving the criminal problem.

Comment [j22]: As mentioned earlier, I believe large crowds may constitute a threat in itself, such as the incident of the Boston Marathon.

(3) Advance Notice of Public Surveillance Cameras. At least 15 days before the installation of a public surveillance camera that will not have a residence in its visual range, will not be within 300 feet of a residence, and will be in place for more than 15 days, the City Administrator shall post a sign within 25 feet of the location for which the public surveillance camera is proposed. The signs shall state that a public surveillance camera will be installed on a date that is 15 or more days after the date of the notice.

1:908. Public Display of All Public Surveillance Cameras.

Comment [j23]: As stated in 1:903(4), this section should exclude cameras of 15 days or less for the same reasons stated earlier. It could state, "...cameras in place for more than 15 days..."

(1) Upon installation of a new public surveillance camera in all areas, the City Administrator shall post a conspicuous sign or marker within 25 feet of the location of the public surveillance camera. The sign or marker shall indicate that a public surveillance camera is monitoring the area. The sign or marker may be on a police vehicle, so long as the sign or marker is clearly visible and is not displayed when a public surveillance camera is not present.

(2) The City Administrator shall publish on a publicly available website the location and purpose of each public surveillance camera installed in the City. The website shall list the specific criminal problems that each such public surveillance camera was installed to address. The website shall be updated within seven days of the installation or removal of a public surveillance camera.

(3) At the time a public surveillance camera is removed or renewed, the City Administrator shall publish a closing report to a publically available website. The closing report shall state the threat or criminal problem that the public surveillance camera was intended to solve and provide data regarding the effectiveness of the public surveillance camera in addressing the threat or criminal problem. If the public surveillance camera was used for other purposes than addressing the original criminal problem, then those uses shall also be disclosed. If disclosing such information would violate state or federal law, the report shall be published without disclosing restricted information.

Comment [j24]: From Tom Crawford: 1:908 (3) At removal staff may not be able to conclusively say whether the anticipated impact was successful since it may have prevented a crime.

Comment [j25]: As written, this provision still applies for the use of short term cameras. Some threats disclosed to me as a law enforcement Chief may not be disclosed to the public. As the Chief, I have a level of clearance from the FBI that prohibits me, by law, in disclosing some information.

1:909. General Requirements for Use of All Public Surveillance Cameras.

(1) Live-Monitoring and Sound. Except for purposes of determining that the public surveillance camera is properly installed and operating, or in temporary emergencies when there is good reason to believe there is an imminent risk of injury or death, live-monitoring is prohibited, and recordings made from public surveillance cameras shall be used only for identification purposes after a crime

has occurred. Audio monitoring and recording are prohibited in all cases. In the event of emergency live-monitoring, a notice and explanation of how and why it was used shall be published on a publicly available website and sent to the Ann Arbor Human Rights Commission within 30 days. The Commission may advise the City Council of notices or call hearings, if they have questions or concerns about these emergency actions.

Comment [j26]: Unknown if live monitoring will be the trend of the future in certain situations such as large crowd gatherings.

(2) Visual Range. If the public surveillance camera is to be positioned in such a way that the inside of a private residence is in its visual range, the City Administrator must first obtain written permission from the adult residents of that property.

(3) Network of Private Cameras. The creation of a network of privately owned cameras that are linked together and centrally monitored by a governmental entity is prohibited.

(4) Time Limits

a. A public surveillance camera installed under 1:903 must be removed or deactivated no more than 15 days after installation and another public surveillance camera authorized under 1:903 may not be installed within 100 feet of that location sooner than three months after the removal. At the end of the time period, a closing report must be published in accordance with 1:908(3).

Comment [SB27]: This does not address use of cameras for two different problems occurring one after another, e.g. there is a camera up for graffiti at a location. Camera comes down after 15 days. 15 days later the site becomes a gathering spot for heavy drug use. This requires wait of 90 days to install a camera in a location within 100 ft. This can create a problem.

b. A public surveillance camera installed under Section 1:904 must either be removed no more than six months after installation or renewed in accordance with Section 1:904. At the end of the time period, a closing report must be published in accordance with 1:908(3).

Comment [C.W.28]: In such a case I think that's when the long-term installation projections kick in.

c. A public surveillance camera installed under Section 1:906 must either be removed no more than one year after installation or City Council must be notified and requested to hold a public hearing after which City Council must decide whether to allow the use of the camera for another year. In order to renew the public surveillance camera, the City Administrator must hold a public hearing before City Council at least thirty days before the camera is to be renewed. At the public hearing, any person present may speak as permitted by City Council rules applicable to public hearings. Following the public hearing, City Council shall vote on whether to renew the camera for an additional year. Such procedure must be followed every year in order to continue use of the camera. At the end of each time period, a closing report must be published in accordance with 1:908(3).

Comment [j29]: Would like to have ability to extend for additional 15 days if reason can be articulated. I had originally hoped for 30days as the length of short term cameras.

(5) Fixed Position. Except for purposes of determining that the public surveillance camera is properly installed and operating, the public surveillance camera may not be moved, and its visual range may not be altered. A change to the location or visual range of the public surveillance camera shall be considered a new installation of a public

surveillance camera. Cameras on moving remotely operated aerial vehicles may not be used as public surveillance cameras.

Comment [j30]: Unknown how this may affect cameras with remote capability if monitoring of crowds for specific events becomes accepted by the community or the downtown merchants.

1:910. Storage of Recordings from All Public Surveillance Cameras.

- (1) Log of People Who Have Accessed Recordings. The City Administrator shall maintain a log of people who have accessed recordings from public surveillance cameras. The log shall include the names of all those who have accessed the recordings, the times at which they did so, and the reasons for their use.
- (2) Deletion. Recordings of observations made by a public surveillance camera shall not be stored for more than 90 days unless
 - a) The recordings are part of an investigation of a specific crime or a series of related crimes or b) the destruction of recordings would violate state or federal law. Only recordings relevant to an investigation and subsequent legal proceedings may be preserved. When the investigation and subsequent legal proceedings are over, the relevant recordings must be destroyed, unless doing so would violate state or federal law.
- (3) Access to Recordings. Except as required by law or to assist in the identification or apprehension of a person connected to a specific crime, both recordings of observations made by a public surveillance camera, and information about specific recordings, shall not be made public and may not be reviewed by anyone other than the following persons:
 - (a) An employee of the Ann Arbor Police Department in connection with the investigation of a specific crime or series of related crimes;
 - (b) As pursuant to lawful rules of evidence, a defendant in a criminal proceeding, an attorney engaged in his or her defense, or an investigator or expert engaged by the defendant or the defendant's attorney in connection with the defense against the criminal charge;
 - (c) As pursuant to lawful rules of evidence, an attorney employed in a public prosecutorial function, but only in connection with a specific case in which the attorney is engaged in that function.
- (4) Exposure of Surveillance Recordings. Any person who intentionally makes a public surveillance camera recording public in violation of this section shall be deemed guilty of a misdemeanor and may be punished by fine of up to \$500.00.
- (5) Under no circumstances may recordings from public surveillance cameras be used for personal purposes.

Section 2.

May 9, 2013

In the event any court of competent jurisdiction shall hold any provision of this ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 3. This ordinance shall take effect ten days after passage and publication.

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Comment [j31]: General comment about this ordinance. I do not disagree with the intent to have provisions in place for the protection of residents in neighborhood settings. However, as written with so many restrictions and procedures, I believe there may be many unintended consequences that may restrict the use of cameras in situations that many may agree is needed. I go back to the large events that draw big crowds to the city. These do not generally occur in neighborhoods, but more in downtown settings where the need for security has to be taken into account.

Comment [j32]: My remaining concerns –

1. I am still reluctant to be supportive of restrictions in the use of cameras in threats/security/high risk situations such as large gatherings.
2. I believe there should be no restriction in the deployment of the short term cameras.
3. As a law enforcement official, I am concerned about restrictions that may inhibit my ability to provide safety and security for unknown future threats and risks. In light of recent events, security needs continue to change.

Comment [j33]: -From Tom Crawford:
Overall the ordinance seems to raise a concern and then attempt to address it by banning certain things. A more effective method of resolving the concerns may be through a good governance plan.
-Another observation: the term surveillance is used and a presumption made that if there is a camera, then someone is watching it. The reality is city cameras are typically used for video monitoring – in other words not even reviewed unless an incident is reported. A good example of this is how it could help with an event like what happened in Boston.
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