

ORDINANCE 2015-2
BOROUGH OF NEW ALBANY
BRADFORD COUNTY, PENNSYLVANIA

AN ORDINANCE, ADOPTING CHAPTER _____, SECURITY CAMERA SYSTEMS, PUBLIC, OF THE CODE OF THE BOROUGH OF NEW ALBANY, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

New Albany Borough hereby ordains and enacts as follows:

§ 1. Purpose.

The purpose of this chapter is to ensure that all public security camera systems:

- A. Further a legitimate, clearly articulated public safety purpose;
- B. Can effectively achieve their articulated purpose;
- C. Can achieve their articulated purpose more efficiently than could alternative means;
- D. Minimally impact constitutional rights;
- E. Employ an open and publicly accountable process; and
- F. Employ technological and administrative safeguards to reduce the potential for misuse and abuse of the system.

§ 2. Definitions.

As used in this chapter and/or in the regulations promulgated by Borough Council certain words and phrases are defined as follows:

APPENDING DATA

Using technology to attach personally identifiable information, such as name, address, or criminal history, to footage or other records of the public security camera system such that those subsequently accessing the footage or records can also access the attached personal information.

AUDIO RECORDING

A permanent or retrievable record of oral conversations and audible sounds. The Borough of New Albany public security cameras shall perform no audio recording. Audio recording is governed by state and federal law and is separate and apart from the recording performed by the security cameras in the public right-of-way. Any recordings that capture audio shall be treated under the provisions of the Pennsylvania Wiretapping and Electronic Surveillance Control

Act, Act of October 4, 1978, P.L. 831, No. 164, 18 Pa.C.S.A. § 5701 et seq., as amended, and/or the federal Electronic Communications Privacy Act of 1986, Pub. L. No. 99-508, 100 Stat. 1848 (1986), 18 U.S.C. § 2510 et seq., as amended.

AUTOMATIC IDENTIFICATION

Use of a public security camera system in conjunction with biometric or other digital technologies to ascertain or confirm the identity of an individual whose image is captured on public security camera footage, whether in real time, as applied to recorded footage, or prospectively.

AUTOMATIC TRACKING

The use of a public security camera system to follow a specific individual or his or her vehicle with technology operating independently of immediate or direct human control, regardless of whether his or her identity is known, so as to create a seamless record of his or her activity during a specific period.

BOROUGH PUBLIC SECURITY CAMERA

A public security camera, owned or controlled by the Borough of New Albany, focused on a public place, paid for in whole or in part with Borough or other government monies, not hand-held by system operators, implemented for a period of time up to 180 days and then to continue indefinitely, and the primary purpose of which extends beyond a single, specific law enforcement investigation.

GOVERNMENT MONIES

Funds secured from the Borough Council or any other federal, state, county or Borough funding source.

HARM

Physical, financial or emotional injury and is not limited to legal wrongs or violations of legal duties.

INSTALLATION

An arrangement of cameras allowing them to operate without direct manual control.

MISUSE

Use, operation of or interaction with a PSC system in a manner inconsistent with the use restrictions described in this chapter or otherwise not conforming to the approved purposes of the PSC system.

OBSERVATION or MONITORING

Real-time viewing of live camera images.

OPERATOR or BOROUGH OPERATOR

A Borough employee or designee authorized and trained to use the system, working for or under the supervision or control of the New Albany Borough Council.

PAN, TILT AND ZOOM

Manipulating a camera to view areas outside the original image frame or measurably increase the resolution of the images rendered.

PUBLIC SECURITY CAMERA FOOTAGE or FOOTAGE

Any images recorded by a public security camera system or by a public security camera paid for with government monies, including time and location data and any additional metadata or information appended to the images on the footage.

PUBLIC SECURITY CAMERA SYSTEM or PSC SYSTEM or SYSTEM

Two or more government-owned and -operated cameras focused on a public place and remotely operated.

RECORDED

Images that are preserved and stored by a public security camera system for later review. This includes preservation for any length of time beyond a short window necessary to perform an initial review of the footage.

REVIEWER

The Council President or his or her designees.

SECONDARY PURPOSE

An intentional, planned and authorized use of a system, a component of it, or the collected data, for a purpose other than an original approved purpose for the system.

THIRD PARTIES

Individuals or entities (other than the individual requesting access to records relating to himself or herself) that are not under the supervision or control of the New Albany Borough Council.

§ 3. Borough to abide by principles for use.

The Borough of New Albany intends to abide by the following principles in its use of public security cameras and recordings:

- A. When images are recorded, stored, reviewed or otherwise processed, the purpose for such activity shall be stated and recorded;
- B. Borough-owned public security cameras shall be open and the camera-monitored areas shall have signs advising the public of the presence of the cameras;
- C. Images collected by operation of Borough public security cameras shall be retained no longer than necessary. Any long-term retention shall be in accordance with this chapter;
- D. Access to data from Borough public security cameras shall be available upon written request;
- E. Images acquired by the Borough from public security cameras shall not be used for any purpose other than the described purpose set forth in the application for access;
- F. Borough public security cameras shall be directed at the public right-of-way or public property so that no recording is performed except of events and persons in the public right-of-way or in public view, or on public property. Public security cameras in residential areas shall not provide visual access not available to the general public;
- G. Borough public security camera operators shall be trained and supervised in the responsible, lawful and ethical use of the cameras, the recording equipment and the recorded images. Access to footage shall be limited, and the limited number of personnel with access to footage shall likewise be trained and supervised in the responsible, lawful and ethical use of footage;
- H. There shall be specific sanctions for misuse or abuse of the system or of the footage including suspension without pay or termination;
- I. Borough-owned public security camera footage shall not typically be monitored except when an event triggers the need for short-term monitoring.
- J. There shall be no audio recording.

§ 4. Deployment of security cameras.

A. Borough public security cameras may be deployed only in those public property areas experiencing a distinct pattern of crimes being committed on public space where utilization of camera surveillance could detect and/or eliminate such crimes. From and after the effective date of this chapter, a public security camera location shall be approved preliminarily for installation and use by the Council President or his/her designee:

- (1) The proposed location is a public space experiencing a distinct pattern of crime;
- (2) The potential to deter and/or eliminate such criminal activity outweighs any concerns asserted by the affected community;
- (3) There exists significant support from the affected community for the camera(s).

B. Borough public security cameras, and any and all footage, may be used only by those persons authorized herein and may be used solely in the specific instances set forth in this chapter, and use of public security cameras by such persons in any other manner or location, or for any other purpose, is expressly prohibited. The Borough Secretary shall maintain a log of all public security camera locations, the dates of their approval by the Borough Council. Such log shall be available to the public. The Borough Secretary shall maintain a log of all security cameras monitoring activity on Borough property.

§ 5. Public emergency.

Borough public security cameras, and any and all footage, may be used for the purpose of providing surveillance during any public emergency, including, but not limited to, weather emergencies, fire emergencies, flood, pollution incidents or threat conditions connected with the safety of any person.

§ 6. Law enforcement and crime prevention.

Borough public security cameras, and any and all footage, may be used for the purpose of providing surveillance in the service of law enforcement and crime investigation and prevention within the Borough of New Albany where there is suspected criminal activity or situations causing concerns for public safety or where there is a potential for criminal activity

§7. Direction of cameras at public right-of-way and/or public property.

All public security camera systems and public security cameras shall be directed at the public right-of-way or public property so that no recording is performed except of events and persons in the public right-of-way or in public view. Public security cameras in residential areas shall not provide visual access not available to the general public.

§8. Retention of footage and data.

All footage and accompanying data from Borough public security cameras must be automatically deleted or recorded over after expiration of 180 days, except where retained for a specific criminal investigation or in connection with an incident that may subject the Borough to liability or to protect the Borough from any claims.

§9. Disclosure of and third-party access to footage.

Except as otherwise provided in §§ 11, 12 and 13 of this chapter, or as otherwise required by federal or state laws, the operator shall not disclose footage or other data gathered or compiled by or stored in a Borough public security system or a Borough public security camera to third parties or provide to or allow third parties to access such footage or data. Access to a Borough public security camera system and its facilities and stored data, including but not limited to control rooms, databases, and cameras, by the Borough operator and its employees or agents shall be limited to enumerated lists of authorized Borough operators, designated by the Council President who have completed the requisite training program described in this chapter.

§10. When access allowed; log of access.

A Borough operator may access and use Borough recorded footage for purposes consistent with the purpose of the system as articulated in this chapter. No additional approval is required for such use, once the footage has been properly retained pursuant to the retention requirements of this chapter. All access to footage shall be logged indicating the person who had access, when access took place, what was viewed and the purpose for the access.

§11. Pertinence to criminal defendants.

As this chapter pertains to criminal defendants:

A. In accordance with the Pennsylvania and the Federal Rules of Criminal Procedure, defendants in criminal cases may obtain public security camera footage related to the charges pending against them that is within the Borough's possession, custody, or control.

B. If public security camera footage is intended to be used in the prosecution's case in chief in a criminal trial, the criminal defendant shall be provided with all the information as required by applicable state and federal laws.

C. Footage disclosed to criminal defendants under this section shall not be disclosed to the public, except to the extent necessary to defend against the criminal charges in the action under which the footage is disclosed.

§12. Use of footage in civil suits between private litigants.

As this chapter relates to footage being used in civil suits between private litigants:

A. Data collected by Borough public security camera systems is for law enforcement purposes and shall not be available to the parties or discoverable in civil trials between private litigants except pursuant to an order of a court of competent jurisdiction and upon prior request made within 30 days of the event upon which the claim is based.

B. Data collected by Borough public security camera systems shall be made available to the parties in actions based on alleged police misconduct, but only upon prior request made within 30 days of the event upon which the claim is based.

C. Any data collected by Borough public security camera systems which contains footage relevant to a claim for damages which may be made to the Borough under the Political Subdivision Tort Claims Act shall be made available to the Borough and to the claimant if request therefor is made in writing to the Council President within 30 days of the event upon which the claim is based.

§13. Use of footage by other government entities.

As this chapter relates to other government entities:

A. Except as provided in §11, a governmental entity may not access or use Borough recorded footage.

B. A governmental authority may apply for an order authorizing access to Borough recorded footage, provided that such application is made within 30 days of the footage being compiled. Such applications shall be in writing upon oath or affirmation of an operator to the Council President and shall require a full and complete statement of the facts and circumstances surrounding the incident that has led to a request for access to Borough recorded footage; a listing of specific cameras and specific times; specific guidelines to determine whether or not to grant permission to access Borough recorded footage. These guidelines should include, but are not limited to, severity of the crime; providing probable cause that an individual is committing, has committed, or is about

to commit a crime and that access to Borough recorded footage would provide evidence or information about the crime.

§14. Recordkeeping.

Detailed records shall be kept by the New Albany Borough in a secure location under the control of the Council President pending review and during litigation and/or permanently stored if legally necessary in a safe deposit box in the name of New Albany Borough regarding the operation of and access to the Borough public security camera system, including:

A. An ongoing log of all those who maintain, operate, observe, inspect, or access the public security camera system and/or any data or footage collected by that system, including the purposes of each activity, the names of the individuals engaging in that activity, and the times and dates when such access occurs;

B. An ongoing log of all recorded footage, including how long the footage has been retained, why the recorded footage was retained, and copies of any orders for extended retention, if they exist; and

C. An ongoing log of all disclosures of recorded footage, including a description of what is contained in the footage, the names of any parties to which the footage was disclosed, when the footage was disclosed, the reasons for disclosure, and copies of any orders for disclosure, if they exist.

§15. Selection and training of operators.

The New Albany Borough Council shall provide training for all operators of Borough-owned public security camera systems.

§16. Certification to be signed by operators.

All operators of Borough public security cameras shall sign a certification that they have read and understand this chapter.

§17. Access limited to enumerated lists of authorized operators.

Access to a Borough public security camera system and its facilities and stored data, including but not limited to control rooms, databases, and cameras, by the operator and its employees or agents shall be limited to enumerated lists of authorized operators who have completed the requisite training program described in §15 and 16, except where data must be provided to third parties as enumerated in §§11, 12 and 13.

§18. Public notification of Borough surveillance cameras.

A. Notices in locations subject to the Borough public security cameras shall be posted stating, in clear language, that such location is subject to observation and, if applicable, recording, by a public security camera system.

B. Notices posted pursuant to Subsection A shall be posted at the major public street entrances to the Borough and the entrances to the Borough Park and the Borough Sewer Plant.

§19. Periodic reviews of existing systems.

Reviews must be conducted in case of misuse or harm, alterations or change in purpose.

This Ordinance shall take effect immediately upon adoption.

ENACTED AND ORDAINED BY THE BOROUGH OF NEW ALBANY,
this 1st , day of July , 2015.

Michelle Dunham, President

ATTEST:

Duane Clark, Secretary

APPROVED THIS 1st DAY OF July 2015.

Daniel Dunham, III, Mayor