

ATTACHMENT A

RESOLUTION NO. 2024- 48

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, EXTENDING THE PILOT PROGRAM PERMITTING QUALIFYING HOMEOWNER'S ASSOCIATIONS TO INSTALL PRIVATELY OPERATED SECURITY CAMERAS WITHIN THE PUBLIC RIGHTS-OF-WAY, AND WAIVING CITY COUNCIL POLICY L-6, ENCROACHMENTS IN PUBLIC RIGHTS-OF-WAY, IN REGARDS THERETO**

**WHEREAS**, the City of Newport Beach ("City") is governed, in part, by its Charter, Municipal Code, and adopted City Council Policies;

**WHEREAS**, it is the general policy of the City that the public rights-of-way shall be reserved for public use or open space, and that the rights of the public, present and future, shall not be diminished by the installation of private improvements within the public rights-of-way;

**WHEREAS**, City Council Policy L-6, Encroachments in Public Rights-Of-Way, sets forth the policy and procedure for permitting private improvements within the public rights-of-way;

**WHEREAS**, City Council Policy L-6 does not provide for the installation of private cameras within the public rights-of-way;

**WHEREAS**, on June 27, 2023, the City Council adopted Resolution No. 2023-40, establishing a temporary pilot program ("Pilot Program") to permit qualifying homeowner's associations to install privately operated security cameras within the public rights-of-way;

**WHEREAS**, during the Pilot Program, homeowner's associations were permitted to install private security cameras within the public rights-of-way for their own private security purposes, and at their option, to provide law enforcement with data regarding suspected incidents of criminal activity;

**WHEREAS**, participation in the Pilot Program enhanced the overall safety and security of those living within the participating homeowner's associations through the deterrent effect that public security cameras present to those considering illegal activity, and additionally, the ability to provide assistance to law enforcement in the apprehension of suspects to prevent repeat criminal behavior;

**WHEREAS**, the Pilot Program is set to expire on September 30, 2024;

**WHEREAS**, based on the success of the Pilot Program, the City Council wishes to extend the Pilot Program for an additional two years to permit qualifying homeowner's associations to install privately operated security cameras within public rights-of-way; and

**WHEREAS**, the City Council desires to waive City Council Policy L-6 to the extent it conflicts with the Pilot Program, and to waive any rent associated with the use of the public right-of-way for the term of the Pilot Program.

**NOW, THEREFORE**, the City Council of the City of Newport Beach resolves as follows:

**Section 1:** The City Council does hereby approve a two year extension of the Pilot Program to permit qualifying homeowner's associations to install privately operated security cameras within the public rights-of-way, in accordance with the procedures, terms, and conditions set forth in in Exhibit 1, which is attached hereto and incorporated herein by reference.

**Section 2:** Homeowner's Associations participating in the Pilot Program pursuant to Resolution No. 2023-40 may continue to participate in the Pilot Program as extended pursuant to this resolution, in accordance with the procedures, terms, and conditions set forth in Exhibit 1 attached hereto.

**Section 3:** Resolution No. 2023-40 is hereby repealed.

**Section 4:** The City Council does hereby waive City Council Policy L-6, Encroachments in Public Rights-of-Way, through September 30, 2026, to the extent that it conflicts with the terms of the Pilot Program adopted by this resolution.

**Section 5:** The City Council does hereby waive any rent associated with the use of the public right-of-way for the term of the Pilot Program.

**Section 6:** Except as expressly modified in this resolution, all other City Council Policies shall remain unchanged and shall be in full force and effect.

**Section 7:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 8:** If any section, subsection, sentence, clause, or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 9:** The City Council finds the adoption of this resolution and the amendment of the specified City Council Policies is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15303 (class 3 new construction or conversion of small structures), 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

**Section 10:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

**ADOPTED** this 23<sup>rd</sup> day of July, 2024.

\_\_\_\_\_  
Will O'Neill  
Mayor

**ATTEST:**

\_\_\_\_\_  
Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE**

  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

Attachment: Exhibit 1 – Pilot Program

**PILOT PROGRAM TO PERMIT HOMEOWNER'S ASSOCIATIONS TO  
INSTALL PRIVATELY OPERATED SECURITY CAMERAS  
WITHIN THE PUBLIC RIGHTS-OF-WAY**

**I. PURPOSE**

The purpose of this pilot program ("Pilot Program") is to permit a qualifying Homeowner's Association ("HOA") to install private security cameras within the public rights-of-way for HOA security purposes. Additionally, the HOA may, but is not obligated to, provide information collected by the security cameras to law enforcement agencies to assist with investigations of instances of theft, vehicle burglary, property damage, traffic accidents, or other activity relevant to law enforcement that may occur in the neighborhood.

**II. APPLICATION**

The terms and conditions of this Pilot Program shall apply to the installation, operation, and maintenance of private security cameras within the public rights-of-way and shall be supplemental to City Council Policy L-6, Encroachments in Public Rights-of-Way. In the event of a conflict between the terms of Council Policy L-6 and the terms of this Pilot Program, the terms of this Pilot Program shall prevail.

**III. TERMINATION**

The City Council reserves the right to terminate this Pilot Program at any time, with or without cause. The term of the Pilot Program shall expire on September 30, 2026, unless the term is extended by the City Council.

**IV. QUALIFYING HOA**

A qualifying HOA shall be an HOA that: includes at least fifty (50) single-unit dwellings within a contiguous neighborhood, is registered and in good standing with the California Secretary of State, and manages a residential planned development in compliance with the Davis-Stirling Common Interest Development Act (Civ. Code §§4000–6150). This Pilot Program will permit up to ten (10) HOAs to install private security cameras within the public right-of-way.

**V. FEES**

During the Pilot Program, any rent associated with the use of the public right-of-way shall be waived. If the encroachment is allowed to remain after the Pilot Program, the City Council will reassess whether to impose a charge for use of the public right-of-way.

## **VI. APPLICATION FOR ENCROACHMENT PERMIT**

An application for an encroachment permit to install private security cameras within the public right-of-way, pursuant to this Pilot Program, shall be filed with the Public Works Department on a form provided by the Public Works Department. The application shall include the following information:

A. A duly adopted resolution from the HOA approving, or requesting authorization for, the installation of private security cameras within the public right-of-way;

B. A copy of all governing documents of the HOA, such as the declaration, bylaws, articles of incorporation or association, the HOA's operating rules, and the HOA's statement filed with the Secretary of State;

C. Information regarding the make, manufacturer, type, and model of the security cameras to be installed;

D. Identity and contact information for the third-party contractor/operator of the security camera system and any contractor or subcontractor who will be installing the system; and

E. A site plan, drawn to scale and fully dimensioned, which accurately depicts the location, height, and extent of the proposed security cameras within the public right-of-way.

## **VII. CONDITIONS**

The HOA shall comply with the following conditions:

A. An encroachment permit and an encroachment agreement, reviewed and approved by the City Attorney's Office, shall be fully executed prior to the installation of security cameras and appurtenant items within the public right-of-way.

B. During the Pilot Program, the HOA may install and maintain security cameras in the public right-of-way as authorized by the encroachment permit and the encroachment agreement for the term set forth in the permit, which may be extended by the City Council.

C. City approved signage shall be posted providing notice to the public of the presence and operation of the security cameras. Signs shall be kept to a minimum, utilize industry standard forms and language. Signs shall be without any advertisements, commercial logos, or company names and placed at locations approved by the City.

D. Security cameras shall be self-contained with solar or battery power and wireless communications.

E. Security cameras shall be directed solely at public areas, such as streets, roadways, sidewalks, alleys, and other public spaces, and shall not capture or record any image of a private dwelling or locations where there is a reasonable expectation of privacy. Security cameras shall be fixed and shall not have pan, tilt, or zoom capabilities.

F. Security cameras shall not utilize facial recognition and shall not capture audio.

G. Information captured by security cameras shall be for the private use of the HOA. The HOA and any third-party contractor hired to operate the cameras or maintain the data shall keep such data confidential, and shall not disseminate, release, license, sell or distribute the data to other third parties except as required by law, or to a public law enforcement agency for official purposes.

H. The HOA shall be solely responsible for the selection, purchase, installation, operation, and maintenance of the security camera system, including but not limited to, cameras, poles, solar power, wireless communication equipment, any other related or necessary appurtenances, and for all costs and fees associated therewith.

I. The HOA shall provide the City with an emergency contact name and phone number who shall respond to the City within 24-hours of any communications from City regarding the security cameras or other matters related thereto.

J. The HOA shall comply with all applicable provisions of law for the installation, operation, and maintenance of such systems, including but not limited to, utilizing appropriately licensed contractors, and obtaining other applicable City permits, such as a City building permit.

K. At the request of the City, the HOA shall share statistical information with the City so it can assess the Pilot Program.

L. The HOA shall agree to relocate the security camera system, or portion thereof, if requested to do so by the City.

M. The HOA shall be responsible for any damage to City property and shall agree to restore the City property to its original condition at the end of the Pilot Program.

N. The HOA shall agree to defend, indemnify, and hold the City harmless from all claims arising out of the installation, operation, maintenance, and use of information acquired by the security cameras. The HOA shall maintain policies of insurance of the type, amounts, terms, and conditions as required by the City Risk Manager in the encroachment agreement.

*History*

*Adopted June 27, 2023*

*Revised July 23, 2024*