ORDINANCE 2007-06

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 6 OF THE EL CERRITO MUNICIPAL CODE BY ADDING CHAPTER 6.90, VIDEO SURVEILLANCE SYSTEMS

THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 6 of the El Cerrito Municipal Code is hereby amended by adding Chapter 6.90 Video Surveillance Systems to read as follows:

"Chapter 6.90 VIDEO SURVEILLANCE SYSTEMS

Sections:	
6.90.010	Title.
6.90.020	Definitions.
6.90.030	Video Surveillance Systems required for certain establishments.
6.90.040	Access to Media
6.90.050	Minimum Technological Standards.
6.90.060	Minimum Coverage Standards, Site Assessment, Signage.
6.90.070	Inspections.
6.90.080.	Shopping Centers.
6.90.090	Enforcement; civil penalties.
6.90.100	Financial Assistance.
6.90.110	Development Agreements.
6.90.120	Use Permits.
6.90.130	Exemptions.
6.90.140	Appeal Process.
6.90.150	Severability.

6.90.010 Title.

This chapter shall be known as the El Cerrito Video Surveillance Act of 2007.

6.90.020 Definitions.

The definitions and provisions contained in this section shall govern the construction, meaning, and application of the following words and phrases used in this Chapter.

A. "Bank" means an establishment whose primary function is related to the custody, loan, exchange, issuance of money, extension of credit, or transmission of funds.

- B. "Carry Out Food and Drink" means an establishment whose principal business is the sale of food and beverages in disposable containers in a ready-to-consume state for consumption either within the building or for carry-out with consumption off the premises, whose cash register is visible to the public view.
- C. "Check Cashing Business" means a business required to obtain a license issued by the State of California, Department of Justice pursuant to the California Civil Code sections 1789.30 through 1789.38, or any applicable successor statutes, to operate a check casher's business.
- D. "Convenience Store" means any business which sells at retail both gasoline and more than 20 consumer products.
- E. "Firearm Dealer" means an establishment required to obtain a license issued by the State of California, Department of Justice pursuant to California Penal Code Section 12071, or any applicable successor statute, to sell firearms.
- F. "Media" means material on which audio, video, and electronic data can be recorded for the purposes of making a permanent record to aid in a criminal investigation; that can be enlarged through projection or other means, in a format able to be utilized by the Contra Costa County District Attorney.
- G. "Off-Sale Liquor Business" means any establishment required to obtain a license type 20 or 21 issued by the State of California, Department of Alcohol Beverage Control, which authorizes the sale or consumption of beer, wine, or distilled spirits off the premises where sold.
- H. "Secondhand Dealer" means a business required to obtain a license issued by the State of California, Department of Justice pursuant to Business & Professions Code Section 21640, or any applicable successor statute. The term "Secondhand Dealer" shall also include as a pawnbroker subject to Financial Code Sections 21000 21002 and a coin dealer defined in Business & Professions Code Section 21626(b), or any applicable successor statutes.
- I. "Shopping Center" means a building or series of buildings containing a mix of four (4) or more commercial establishments in a single development or on a single parcel.
- J. "Video Surveillance System" means a continuous digital surveillance system including cameras, cabling, monitors, and digital video recorders (DVR) that records in color with cameras and lens of a type, minimum resolution, number and location approved by the Chief of Police or his/her designee. This system must be capable of producing a retrievable and identifiable images and video recordings on approved media that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation.

6.90.030 Video Surveillance Systems required for certain business establishments.

Every Bank, Carry-Out Food and Drink Establishment, Check Cashing Business, Convenience Store, Firearm Dealer, Off-Sale Liquor Business, and Secondhand Dealer is hereby required to install a video surveillance system. Such establishments which installed surveillance systems prior to the effective date of this ordinance must ensure they are in full compliance with this chapter. Video surveillance systems shall be maintained in proper working order at all times and shall be in operation 24 hours a day, 7 days a week, and shall meet the minimum technological standards established in this Chapter.

6.90.040 Access to Media

If a crime occurs, an employee believes a crime has occurred, the business shall contact the Police Department immediately and the business shall provide immediate access to the media containing the recorded event to the Police Department. The establishment shall retain the continuous digital images recorded by this system for no less than thirty (30) days.

6.90.050 Minimum Technological Standards.

The video surveillance system must be capable of delineating on playback of the system the activity and physical features of persons or areas within the premises and must be able to record such images on an approved form of media. Additional minimum technological standards required for video surveillance systems shall be established by resolution of the City Council, which may be updated periodically. The Police Department shall review the video surveillance system standards bi-annually to ensure that they are consistent with current technology, and shall recommend appropriate updates to the Council. If the video surveillance system is web-enabled or has wireless capability, the Police Department shall be provided the ability to access the live system upon initiation by the establishment during incidents requiring a police response or intervention.

6.90.060 Minimum Coverage Standards, Site Assessment, Signage.

The video surveillance system shall have, at a minimum, separate cameras dedicated to each register/check—out stand, entrance/exit, loading dock, and parking lot or area designated for customer and/or employee parking use. The placement of cameras included in video surveillance systems required under this chapter must be approved by the Police Department. The Chief of Police or his/her designee will conduct an assessment of each site required to install a video surveillance system prior to installation, and upon approval will issue an approval notice which will be placed in plain view inside the premises. This approval notice will also inform customers and employees of the existence of the video surveillance system. A separate notice of the video surveillance system, in a form acceptable to the Chief of Police, shall be placed in the parking area.

6.90.070 Inspections.

The video surveillance system shall be subject to regular inspection by the Chief of Police or his/her designee, who is authorized to inspect at reasonable times any video

surveillance system to determine if the system conforms with this chapter and regulations adopted by Council resolution. If the video surveillance system does not so conform, establishments must take immediate steps to bring the system back into conformance.

6.90.080. Shopping Centers.

All shopping centers within the City that include an establishment subject to the provisions of this chapter shall install a video surveillance system. The minimum coverage shall be cameras that are dedicated to the entrances and exits to the parking lot, loading dock areas, areas designated for customer and/or employee parking use, and entrances and exits to the establishments subject to the provisions of this chapter. Shopping Centers shall also be subject to the minimum technological standards established by City Council resolution.

6.90.090 Enforcement; civil penalties.

- A. Establishments subject to the mandatory requirements of this chapter shall have one (1) year from the effective date of this ordinance to comply with the regulations set forth in this Chapter.
- B. The violation of any provision of this Chapter by any owner or principal operator of establishments subject to this chapter shall result in a notice of violation from the Chief of Police or his designee. The Chief of Police is authorized to investigate all alleged violations. Violators shall have 30 days after receipt of the notice to provide proof of compliance to the El Cerrito Police Department. If the violation continues after the 30-day period, the Chief of Police or designee shall issue a citation against the violator and the violator shall pay a civil penalty not to exceed \$500. The city attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties.
- C. In addition to the foregoing, the violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief.
- D. For purposes of this Chapter, each day that a violation continues shall be a separate violation.

6.90.100 Financial Assistance

It is the intent of the City Council to annually consider during each fiscal year budget process the appropriation of City or Redevelopment Agency funds for the purpose of ensuring compliance through the award of low interest loans or grants to those establishments either required to comply with this Chapter or who wish to voluntarily comply. The rules and regulations for such a program shall be adopted by a resolution of the City Council or Redevelopment Agency Board.

6.90. 110 Development Agreements.

It is the intent of the City Council that any party entering into a development agreement with the City or the Redevelopment Agency that includes a business subject to the

provisions of this Chapter that the video surveillance system be approved according to the provisions of this chapter before the issuance of a certificate of occupancy.

6.90.120 Use Permits.

In the event that existing or future businesses covered under this Chapter apply for and receive a use permit, it is intended that the use permit shall contain specific land use conditions, including but not limited to, surveillance, lighting and security, tailored to the operation of the business. In the event that a use permit has been issued for such a business and the use permit conditions differ from the regulations established under Chapter 6.90 or are in addition thereto, then the more restrictive provisions shall apply.

6.90.130 Exemptions.

A business which is required to install a video surveillance system may, on an annual basis, apply to the Chief of Police or his/her designee for exemption from the provisions of this chapter. The Chief of Police or his/her designee may exempt a business for a period of twelve months if he/she finds that the business has or will undertake alternate security procedures which are substantially equal to or more effective in preventing criminal activity and in assisting in the apprehension of the perpetrators of crime or for the protection of employees, or the he/she may authorize alternate procedures on an experimental basis. Such an exemption shall carry a maximum duration of twelve months, and a businesss must reapply for an exemption at the end of the exemption period or bring the system into conformance with this chapter. The Chief of Police or his/her designee may also authorize temporary extensions of time for installation when a business demonstrates that it is temporarily unable to comply for good cause shown.

6.90.140 Appeal process.

- A. Any establishment found to be in violation of this chapter by the Chief of Police or his/her designee shall have the right to a hearing before the City Manager or his/her designee.
- B. The Chief of Police or his/her designee shall give the applicant written notice of the violation. The notice shall set forth the grounds for the violation, and shall inform the owner or principal business operator of the establishment that he/she has ten days from the date of mailing of the notice to file a written request for a hearing.
- C. Within ten days of mailing of the written notice of violation by the Chief of Police or his/her designee, the owner or principal business operator may appeal by requesting a hearing before the City Manager. Such a request must be made in writing and must set forth the specific grounds for the appeal. If the applicant files a timely request for a hearing, the City Manager or his/her designee shall set a time and place for the hearing within ten days thereafter. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues, to the represented by counsel, and to confront and cross-examine any witness against them. The decision of the City Manager or his/her designee to deny the application shall be in writing and shall be rendered within one week of the hearing.

6.90.150 Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed the ordinance codified in this Chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional."

SECTION 2. This ordinance shall take effect thirty (30) days after adoption and either a summary of this ordinance, including the names of the Councilmembers voting for and against it, shall be published twice, five (5) days prior to adoption and again within fifteen (15) days after adoption or the entire ordinance, including the names of the Councilmembers voting for and against it, shall be published once, within fifteen (15) days after adoption, in a newspaper of general circulation that is circulated in the City of El Cerrito.

THE FOREGOING ORDINANCE was introduced and first read at a regular meeting of the City Council of the City of El Cerrito on September 17, 2007 and passed by the following vote:

AYES:

Councilmembers Abelson, Bridges, Jones, Potter and Mayor Moore

NOES:

None

ABSENT:

None

ABSTAIN:

None

ADOPTED and ordered published at a meeting of the City Council for the City of El Cerrito held on the 1st day of October, 2007 by the following vote:

AYES:

Councilmembers Abelson, Bridges, Jones, Potter and Mayor Moore

NOES:

None

ABSENT:

None

ABSTAIN:

None

Letitia/D. Moore, Mayor

ATTEST:

Cheryl Morse, City Clerk