CREATED BY COUNCILMEMBER SHEFFIELD FOR DISCUSSION / REVIEW

TOWN OF JEROME, ARIZONA PROPOSED ORDINANCE — SUBSTANTIVE LIMITS — CLEAN TEXT

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF JEROME, ARIZONA, AMENDING ARTICLE 4-4 OF THE TOWN CODE BY ADDING SECTIONS 4-4-12 THROUGH 4-4-19, ESTABLISHING LIMITS ON THE RETENTION OF, EXTERNAL ACCESS TO, AND CAPABILITIES OF SURVEILLANCE EQUIPMENT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Council has previously adopted Article 4-4 of the Town Code, requiring Council approval before Surveillance Equipment is acquired, installed, or operated; and

WHEREAS, the Council finds that a requirement of prior approval governs who decides and how visibly, but does not by itself govern how long data is kept, who may obtain access to it, or what capabilities the equipment may have; and

WHEREAS, the Council finds that limits on retention, external access, and equipment capability are appropriately established in advance, by ordinance, rather than case by case; and

WHEREAS, the Council intends that nothing in this Ordinance restrict compliance with Arizona's Public Records Law, with any lawful court process, or with any other obligation imposed by state or federal law;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Jerome, Arizona:

SECTION 1. Article 4-4 of the Town Code is amended by adding Sections 4-4-12 through 4-4-19 to read as follows:

Section 4-4-12 Application

A. Sections 4-4-12 through 4-4-19 apply to all Surveillance Equipment operated by or on behalf of the Town of Jerome, and to all data collected by that equipment, regardless of when the equipment was installed or approved. This includes equipment continuing in operation under Section 4-4-7 without approval under this Article.

B. Sections 4-4-12 through 4-4-19 apply to Surveillance Equipment installed on Town property by another person or governmental entity under Section 4-4-3, and compliance with these Sections shall be a condition of any approval granted under Section 4-4-3.

C. These Sections do not apply to, and cannot apply to, equipment installed by the Arizona Department of Transportation within the right-of-way of a state highway, including State Route 89A.

D. The Town Manager shall designate a custodian responsible for compliance with Sections 4-4-13 and 4-4-14 and for maintaining the log required by Section 4-4-14(D).

Section 4-4-13 Data Retention

A. Data collected by Surveillance Equipment shall be retained for no longer than thirty (30) days from the date of collection and shall be deleted thereafter, subject to and consistent with records retention schedules approved under A.R.S. Title 41, Chapter 1, Article 2. Where an approved retention schedule requires a longer retention period for a category of record, that schedule controls.

B. Subsection (A) does not require deletion of data that is: 1. part of an active law enforcement investigation; 2. subject to a pending criminal or civil proceeding, a pending claim, or litigation that the Town reasonably anticipates; 3. responsive to a pending request under A.R.S. Title 39, Chapter 1; or 4. subject to a preservation obligation imposed by law or by court order.

C. Data retained under Subsection (B) may be retained for as long as necessary for that purpose and shall be deleted when the purpose has concluded, subject to applicable retention schedules.

D. Deletion under this Section shall occur automatically where the equipment or service is capable of automatic deletion. Where it is not, the custodian designated under Section 4-4-12(D) shall cause deletion to occur on a documented schedule.

Section 4-4-14 Limits on External Access and Disclosure

A. No standing, continuous, automated, bulk, or programmatic access to data collected by Surveillance Equipment shall be provided to any person or agency other than the Town of Jerome. This includes any live feed, application programming interface, shared search platform, regional or national data-sharing network, or arrangement permitting an outside party to query Town data without an individual request.

B. Access described in Subsection (A) may be established only by prior approval of the Town Council by majority vote, as a distinct agenda item, and only for a stated term.

C. Disclosure of individual records to an outside agency shall be made upon a written request identifying the requesting agency, the records sought, and the purpose of the request. The request and the Town's response shall be retained by the custodian designated under Section 4-4-12(D).

D. The custodian shall maintain a log of all disclosures made under Subsection (C) and all access arrangements approved under Subsection (B), and shall report that log to the Council no less than annually as a public agenda item. The log shall identify the requesting agency, the date, and the stated purpose, and shall not include the content of any record.

E. Nothing in this Section limits, restricts, or delays: 1. disclosure required by Arizona's Public Records Law, A.R.S. Title 39, Chapter 1; 2. disclosure pursuant to a valid warrant, subpoena, court order, or other lawful process; 3. disclosure in response to a mutual aid request concerning a specific, ongoing emergency; 4. disclosure to or communication with any federal, state, or local agency where such disclosure or communication is required or

protected by state or federal law, including A.R.S. § 11-1051 and 8 U.S.C. § 1373; or 5. the exercise of law-enforcement authority by any agency with jurisdiction within the Town.

F. Where Surveillance Equipment is owned, hosted, or serviced by a third party, the data terms required by Section 4-4-4(D) apply in addition to this Section.

Section 4-4-15 Facial Recognition, Biometric Identification, and Automated Tracking

A. Surveillance Equipment shall not be equipped with, connected to, or used in conjunction with any system or service providing facial recognition, gait recognition, voice identification, or any other automated biometric identification of an individual.

B. Surveillance Equipment shall not be used to conduct automated tracking of an identified individual's movements over time, and shall not be connected to any system or service that performs such tracking.

C. Data collected by Surveillance Equipment shall not be submitted to any third party for facial recognition or biometric identification analysis.

D. For purposes of this Section only, "Surveillance Equipment" includes body-worn cameras, dash-mounted cameras, and equipment excluded from the definition of Surveillance Equipment under Section 4-4-1(B), notwithstanding that exclusion. Nothing in this Subsection subjects equipment excluded under Section 4-4-1(B) to Sections 4-4-13, 4-4-14, 4-4-16, 4-4-17, or 4-4-18.

Section 4-4-16 Automated License Plate Readers — [ALTERNATIVES; SELECT ONE]

[Option A — Prohibition] The Town shall not fund, acquire, lease, install, or operate an automated license plate reader, and shall not approve the installation or operation of an automated license plate reader on Town property under Section 4-4-3. This Section does not prohibit the manual review of recorded images by a person in connection with a specific reported incident.

[Option B — Conditional] An automated license plate reader may be approved under Section 4-4-2 or Section 4-4-3 only as a distinct agenda item stating that the equipment is an automated license plate reader, and only subject to the following conditions: (1) plate data that does not match an active, lawful alert at the time of capture shall be deleted within seventy-two (72) hours; (2) the equipment shall not be connected to any regional, statewide, or national plate-data sharing network; (3) plate data shall not be shared except as permitted by Section 4-4-14; and (4) the operator shall report the number of captures, matches, and disclosures to the Council annually.

Section 4-4-17 Audio

Surveillance Equipment shall not record, transmit, or store audio, and any audio capability present in such equipment shall be disabled. This Section does not apply to body-worn or dash-mounted cameras, which are excluded from the definition of Surveillance Equipment under Section 4-4-1(B).

Section 4-4-18 Notice at Installation Sites

Signage reasonably visible to a person entering the area covered by Surveillance Equipment shall be posted at or near each installation site, stating that the area is monitored or recorded and identifying the Town or other operating entity. Signage shall be reviewed under Section 4-4-6 where the installation is within the Historic Overlay District.

Section 4-4-19 Approval Threshold — [OPTIONAL; SEE COMPANION NOTES]

[Notwithstanding Sections 4-4-2 and 4-4-3, approval of Surveillance Equipment under this Article shall require the affirmative vote of at least four (4) members of the Town Council. If fewer than five seats are filled, or fewer than five members are eligible to vote on the matter, approval shall require the affirmative vote of all members eligible to vote, but in no case fewer than three (3).]

SECTION 2. Severability. The severability provision at Section 4-4-10 of the Town Code applies to the Sections added by this Ordinance.

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its passage and adoption.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Jerome, Arizona, this ____ day of _____, 20____.

Mayor Town Clerk

APPROVED AS TO FORM:

Town Attorney

End of clean ordinance text.