

Article 4 - County Operations Ordinances

400.5 – Surveillance, Invasion of Privacy or Security of County Property

Surveillance, Invasion of Privacy or Security on County Property

400.5.1 Purpose and Findings: Michigan’s Surveillance and Wiretapping Act (“SWA”), MCL §750.539a-j prohibits surveillance or eavesdropping that would constitute an invasion of privacy. MCL §46.11(j) authorizes the Ottawa County Board of Commissioners (“Board”) to enact ordinances protecting County interests in owned, leased or controlled properties (“County Property”). The Board determines that there is a privacy and security interest in all County Property, except its Chambers during a public meeting and the lobbies and hallways of County Buildings and the outside areas of County Property, including Park Properties, when there is a person present who has not provided written consent to be photographed, surveilled or eavesdropped. Except within the Board’s Chambers during an open meeting when consent to be surveilled is presumed, the Board finds that photography without consent is an invasion of privacy of county funded personnel, officers and the public present on the County Property. The Board also finds that drones and photographic equipment have been and could be used to breach the security of incarceration, law enforcement, prosecutorial, electoral, IT and court facilities. Indeed, the MDOC has experienced contraband being dropped by drones onto prison grounds and the possibilities of a weapons drop is also significant.

The Board finds that the behaviors prohibited in this Ordinance are necessary to avoid the impediment and interference in the proper functioning of the business of County government and the Courts that it finances. Specifically, unauthorized video taking and audio recording and harassment of county and court personnel has interfered in Ottawa County with employee performance of critical duties and if unchecked could threaten the recruitment and retention of County and Court funded personnel thereby further impeding performance of duties necessary to the community.

400.5.2 Prohibitions: It shall be unlawful and a violation of this Ordinance for any person to violate any of the following prohibitions:

400.5.2.1 For security reasons, all drone usage is prohibited within Five Hundred (500) feet of the Ottawa County Jail or Juvenile Detention Facilities or Twenty (20) feet of the Grand Haven, Holland, or Hudsonville Courthouse buildings.

400.5.2.2 Except upon a permit issued by the Parks Director or County Administrator, drone usage with a camera/video operating and/or recording pictures or the audio of any person outside on County Property, including County Parks, is prohibited.

400.5.2.3 The photographing, video recording or audio recording of any work area, person or proceeding inside a County Building is prohibited. The following are exceptions to the preceding prohibitions in this subparagraph:

400.5.2.3.1 Publicly noticed proceedings of the Board or its Committees in its Chambers or in a conference room in a County Building;

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400.5.2.3.2 Official court proceedings in a courtroom where the Chief Judge responsible for that Court has expressly authorized the videography, photography, or audio recording;

400.5.2.3.3 Another proceeding in a County Building where the photography, videography or audio recording is expressly authorized by the County Administrator; or

400.5.2.3.4 Any law enforcement or security activities on County Property.

400.5.3 Notice and Posting: The Prohibitions of this Ordinance shall be posted by the Ottawa County Clerk/Register at public entrances to all County Property and on grounds and parking areas of County Property. The absence of a posting, however, shall not bar enforcement of this Ordinance.

400.5.6 Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

400.5.7 Repeal of Conflicting Ordinances: All other ordinances, parts of ordinances, or amendments thereto, any of which are in conflict with the provisions of this Ordinance, are hereby repealed in their entirety to the extent of such conflict.

400.5.8 Enforcement: The Ottawa County Sheriff and his or her deputies shall enforce the provisions of the Ordinance, and may request assistance from the local police departments and the Prosecutor.

400.5.8.1 *Appearance Ticket*. If the Sheriff's deputy determines that there is probable cause that this Ordinance has been violated, he or she is authorized to issue and serve an Appearance Ticket upon a person or entity violating this Ordinance. The Appearance Ticket shall direct the recipient to appear in the appropriate District Court within Ottawa County on a specified date to respond to the alleged violation. Nothing here shall prevent a Sheriff's deputy or Prosecutor from also pursuing enforcement of Michigan's SWA for the same offenses as are prohibited under this Ordinance.

400.5.8.2 *Civil and Criminal Penalties*. Enforcement may be accomplished by civil action and/or criminal prosecution, along with any other remedies provided by law. Any responsible party shall be guilty of a misdemeanor if proven to have violated the provisions of this Ordinance and may, upon conviction, be punished

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by imprisonment in the County jail for not more than ninety (90) days, or by fine of not more than five hundred (\$500) and the cost of prosecution, or by a fine and imprisonment at the discretion of the Court. The imposition of any sentence shall not exempt the Responsible Party from compliance with the requirements of this Ordinance nor from liability for civil penalties or other civil proceedings to enforce this Ordinance or abate the violation. Continued violation of this Ordinance is hereby declared a nuisance *per se*.

400.5.9 Approval: This Ordinance was approved and adopted by the Ottawa County Board of Commissioners on July 27, 2021 and shall be effective on September 1, 2021.

History

Enacted: July 27, 2021

Original Ordinance Number:

Codified:

Amended:

Effective: