

## Article 4 - County Operations Ordinances

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

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#### 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 no 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 videotaping and audio recording and harassment of county and court personnel have 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 and safety reasons, no person shall drop or cause to be dropped using any device, including but not limited to a drone, any object onto the secured grounds of the Ottawa County Jail or Juvenile Detention Facility;

400.5.2.2 For security, safety and public welfare reasons, no person shall engage in any behavior, including but not limited to using a drone, on County-owned property including but not limited to park property in a manner that violates federal or state laws or invades the privacy of and harasses another person or wildlife. For purposes of this Ordinance, “invades the privacy and harasses” means a course of conduct which would annoy, threaten, intimidate, alarm, or cause a reasonable fear of safety.

400.5.2.3 Whether directly or indirectly through a device such as a drone or phone, 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:

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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;

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 January 25, 2022 and shall be effective on February 1, 2022.

#### **History**

Enacted:

Original Ordinance Number:

Codified:

Amended:

Effective: