

RECORD OF ORDINANCES

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 30043

Ordinance No. 40-2023

Passed May 1, 2023

AN ORDINANCE AMENDING 7.06 CELL PHONE AND PAGER USE POLICY TO 7.06 ELECTRONIC WIRELESS COMMUNICATIONS DEVICE USE POLICY

WHEREAS, on December 5, 2016, Brewster Village Council adopted a 7.06 Cell Phone and Pager Use Policy and added that policy to the Village Employee Handbook, and

WHEREAS, on Brewster Village Council desires to amend 7.06 Cell Phone and Pager Use Policy to 7.06 Electronic Wireless Communications Use Policy to incorporate and/or distinguish Ohio Revised Code Section 4511.204 Driving while texting.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BREWSTER, THAT:

SECTION 1: The Village shall amend Employee Handbook 7.06 Cell Phone and Pager Use Policy to 7.06 Electronic Wireless Communications Use Policy as so that it now reads as set forth below:

A. Definitions

- 1) "Electronic wireless communications device" includes any of the following:
 - A wireless telephone;
 - A text-messaging device;
 - A personal digital assistant;
 - A computer, including a laptop computer and a computer tablet;
 - Any other substantially similar wireless device that is designed or used to communicate text.
- 2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.
- 3) "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.

B. Use of an Electronic Wireless Communications Device ~~Cell Phone~~ While Driving

Employees shall exercise extreme caution when **operating/driving** and talking on or using cell phones.

1) Texting:

In accordance with Ohio Revised Code Section 4511.204, employees shall NOT drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication. **Sending or receiving text messages or e-mail while **operating/driving a motor vehicle** is prohibited at all times.**

2) Other Cell Phone Use

- Employees using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;
- Employees are **NOT** allowed to use a cell phone when the vehicle they are operating/driving is stopped at a red light.
- Employees are **NOT** allowed to hold a cellphone to their ear during phone calls. The cell phone **MUST** be mounted on the dash, console, or a cup holder.
- Use of a GPS function or navigation device is allowed, but the cell phone **MUST** be mounted on the dash, console, windshield, or a cup holder.
- **Unless utilizing a "voice-operated or hands-free device" speakerphone option, employees should stop their vehicle as soon as safely possible to answer and use a cell phone.**

Violation may result in disciplinary action up to and including discharge. Exception may be made during emergency response.

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3) Exceptions

- An employee using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- An employee operating/driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties.
- A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device and/or an employee using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle (i.e., hands free).
- An employee using an electronic wireless communications device for navigation purposes (i.e., GPS), provided that the employee does not manually enter letters, numbers, or symbols into the device while operating/driving the motor vehicle and provided that the electronic wireless communications device for navigation purposes (i.e., GPS) is mounted on the dash, console, windshield, or a cup holder.
- An employee operating a utility service vehicle or a vehicle for or on behalf of a utility, if the employee is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals.
- An employee using a handheld an electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe and provided that the handheld electronic wireless communications device is mounted on the dash, console, windshield, or a cup holder.
- An employee using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does NOT manually enter letters, numbers, or symbols into the device NOR hold or support the device with any part of the person's body.
- An employee storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

C. Traveling

When traveling on Village business, employees should use their Village issued cell phone or cell phone for which they are receiving a cell phone allowance for business related calls.

D. Cell Phone and/or Pager Must be Kept in Possession

Authorized employees are expected to have their Village issued cell phone or cell phone for which they are receiving a cell phone allowance in their possession at all times during their work shift. The cell phone or pager may be turned off or silenced at appropriate times during meetings and conferences, or for safety related issues.

Employees may also be required to have their Village issued cell phone or cell phone for which they are receiving a cell phone allowance in their possession at times other than work time, so that they can be contacted by the Village.

E. Voice Mail and E-Mail

Employees that are on vacation or other extended leave should leave an automated "out of office" response for both voicemail and email with alternative contacts to assure customer concerns are met.

F. Texting and E-Mail via Cell Phone

Use of a Village issued cell phone, a cell phone for which an employee is receiving a cell

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phone allowance, or even a personal cell phone which serves to document the Village, its functions, its policies, its decisions, its procedures, its operations, or other activities of the Village shall be conducted via voice or e-mail.

Texting any information which serves to document the Village, its functions, its policies, its decisions, its procedures, its operations, or other activities of the Village is prohibited, because the "public record" cannot be preserved.

This includes any other Electronic Wireless Communications Device.

G. Prohibited Communications

Personal cell phones (**during Village business hours**) and Village issued cell phones and/or pagers (at any time) cannot be used for knowingly transmitting, retrieving, accessing, attempting to access, or storing any material, data, site, or communication that is:

1. Discriminatory or harassing, or
2. Derogatory to any individual or group, or
3. Obscene, sexually explicit, or pornographic, or
4. Defamatory, or
5. Threatening, or
6. In violation of any license governing the use of software, or
7. For any illegal purpose, or
8. Online gambling or gambling sites, or
9. For any other purpose that is contrary to Village policy or business interests.

This list of prohibited uses is not exhaustive and is not to be construed to restrict the Village, in any way, from taking appropriate disciplinary action should an unacceptable or inappropriate use occur, as determined in the sole discretion of the Village, which does not fall into one of the above listed categories.

Use of personal cell phones during non-business hours for the forgoing purposes **may** also be a violation of Village policy (i.e., harassment of another employee), which also may subject an employee to disciplinary action.

This includes any other Electronic Wireless Communications Device.

H. Access to Employee Communications

The Village of Brewster reserves the right, at its discretion, to review an employee's cell phone usage to the extent necessary to ensure that usage is in compliance with the law, this policy, and other Village policies. As such, employees should not assume that use of a Village issued cell phone and/or pager, or a cell phone for which an employee is receiving a cell phone allowance, are completely private. Accordingly, if an employee has sensitive information to transmit, they should use other means.

This includes any other Electronic Wireless Communications Device.

SECTION 2: The above policy replaces any previous version of this policy and supersedes any current policy which may be in conflict with this policy.

SECTION 3: This ordinance shall be in full force and effect at the earliest date provided by law.



Mayor Charles Hawk

ATTEST:



Village Clerk Treasurer K. Kris King

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Ordinance No. 4C-2023

Passed May 1, 202023

CERTIFICATE

I, K. Kris King, hereby certify that the above is a true copy of an ordinance passed at a regular meeting of the Brewster Village Council held on May 1, 2023.

K. Kris King
Clerk K. Kris King

I, K. Kris King, Clerk of the Council of the Village of Brewster, State of Ohio, do hereby certify that there is no newspaper printed in said municipality and that publication of the foregoing ordinance was duly made by posting true copies thereof at five of the most public places in said corporation as determined by Council as follows: Office of Brewster Utilities, Brewster Barber Shop, Brewster Federal Credit Union, Post Office and Brewster Laundromat.

Kris King
Clerk K. Kris King

Brewster,