RECORD OF ORDINANCES

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

Ordinance No. 51-2025 *Passed* October 6, , 2025

AN ORDINANCE TO REVISE 6.09 PUBLIC RECORDS RETENTION AND DESTRUCTION POLICY AND THE ADDITION OF THE POLICY AS REVISED TO THE VILLAGE EMPLOYEE HANDBOOK

WHEREAS, recently a Village employee took a Public Records course sponsored by the Ohio Attorney General, and

WHEREAS, as part of that training the Ohio Attorney General recommended additional language be included in public records policies, and

WHEREAS, Brewster Village Council desires to revise its 6.09 Public Records Retention and Destruction Policy to incorporate the language recommended by the Ohio Attorney General, and

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

SECTION 1: The Village shall revise its 6.09 Public Records Retention and Destruction Policy as set forth below and shall add said revised policy to the Village Employee Handbook as follows:

Public Records Retention and Destruction Policy 6.09

It is the policy and intention of the Village of Brewster to fully comply with the provisions of Ohio Revised Code and the rules and regulations adopted by the Village of Brewster Records Commission that provide for the retention and disposal of public records generated and/or kept by the Village of Brewster. As public servants, we as employees hold the public records in trust for the public.

A. Village of Brewster Records Commission.

1. The Village of Brewster Records Commission is composed of the Mayor or the Mayor's appointed representative (who serves as the chairperson), the Clerk-Treasurer, the Law Director, and a citizen appointed by the Mayor.
2. The Commission shall appoint a secretary, who may or may not be a member of the Commission and who shall serve at the pleasure of the Commission.
3. The Commission may employ an archivist or records manager to serve under its direction.
4. The Commission shall meet at least once every six months and upon call of the chairperson.

B. Rules for Retention and Disposal of Public Records.

The functions of the commission shall be to:

1. provide rules for retention and disposal of records of the Village, and
2. to review applications for one-time disposal of obsolete records, and
3. to review schedules of records retention and disposition submitted by Village offices.

The Commission at any time may review any schedule it has previously approved and for good cause shown may revise that schedule.

C. Schedule of Records Retention and Disposal Defined.

A schedule of records retention and disposal is a listing of records generated and/or kept by the Village of Brewster and the corresponding period that the record must be kept before it may be disposed. The schedule of records retention and disposal must be approved by the Village of Brewster Records Commission and the State of Ohio Historical Society.

D. Public Records Not Listed on a Retention and Disposal Schedule.

Any records that are generated and/or kept by the Village of Brewster that are not listed on a retention and destruction schedule must be retained until a one-time records disposal is submitted to and approved by the Village of Brewster Records Commission or until the records are placed on a records retention and disposal schedule which has been approved by the Village of Brewster Records Commission and the period has lapsed.

E. Disposal or Destruction of Public Records.

1. The Village of Brewster Records Commission may dispose of records pursuant to the procedure outlined in this section.
2. When the Village of Brewster Records Commission has approved any application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio Historical Society for its review.
3. The Ohio Historical Society shall review the application or schedule within a period of not more than sixty days after its receipt of it.
4. Upon completion of its review, the Ohio Historical Society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval.
5. The auditor of state shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it.
6. Before public records are to be disposed of, the Village of Brewster Records Commission shall inform the Ohio Historical Society of the disposal through the submission of a certificate of records disposal and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records that it considers to be of continuing historical value.

NO PUBLIC RECORD MY BE DESTROYED WITHOUT GOING THROUGH THE APPROPRIATE DISPOSAL PROCESS ESTABLISHED BY THE VILLAGE OF BREWSTER RECORDS COMMISSION and/or **AN ESTABLISHED *RECORDS RETENTION AND DESTRUCTION SCHEDULE*** and/or **THE VILLAGE OF BREWSTER PUBLIC RECORDS POLICY.**

F. Maintenance of Public Records Generated and/or Maintained by the Village of Brewster

To facilitate broader access to public records, public records should be organized and maintained in a manner that they can be made available for inspection or copying. It is the responsibility of each Department to accomplish this task.

G. "Public Records Custodial Officer"

The Village of Brewster designates the Village Clerk-Treasurer as the "Public Records Custodial Officer" for the Village of Brewster. For any internal office questions regarding retention and/or disposal of public records generated by and/or maintained by the Village of Brewster, employees should contact the "Public Records Custodial Officer". In the event that the "Public Records Custodial Officer" is not available, then the question should be forwarded to either the Village Administrator or the Law Director.

The "Public Records Custodial Officer" shall:

1. Meet with the employees and answer their question(s), if they know the answer.
2. If they do not know the answer, consult with the **Ohio Historical Society LGR Program.**
3. Coordinate creation of new ***Retention and Destruction Schedules*** for public records generated and/or maintained by the Village of Brewster.
4. Monitor current ***Retention and Destruction Schedules*** for public records generated and/or maintained by the Village of Brewster.
5. Coordinate revisions to existing ***Retention and Destruction Schedules*** for public records generated and/or maintained by the Village of Brewster.
6. Coordinate either one time disposals and/or the disposal and destruction of public records in accordance with existing records ***Retention and Destruction Schedules*** for public records generated and/or maintained by the Village of Brewster.

H. Public Records Defined

1. **"Public records" are defined by Ohio Revised Code Section 149.43(A)(1) as "records kept by any public office..."** Kept by a public office has been further defined as the type of item/record typically and actually retained by the office in the ordinary course of its business in order to carry out its duties and functions.
2. Ohio Revised Code Section 149.011(G) further defines "Records" to include any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.
3. Finally, pursuant to Ohio Revised Code Section 149.40, the definition of a public record can be further refined, as that statute requires records be created only when they "are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the ..." office. Those records so generated are "public records", unless they fall into a specific exclusion.

I. Electronic Records

1. **Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device, are to be treated in the same fashion as records in other formats, such as paper or audiotapes.**
2. **Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of the Village are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.**

J. Exclusion as a Public Record

The following is a list of records that are or may be generated and/or kept by the Village of Brewster (not all exclusions are listed; just those germane to the Village) that are excluded from the definition of public records and are not to be released (viewed or copied) by/for the general public.

1. Medical Records as defined by ORC and by federal regulations. "Medical record" is defined by ORC Section 149.43(A)(3) as any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.
2. Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions.
3. Trial preparation records, which is defined by ORC Section 149.43(A)(4) as any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.
4. Confidential Law enforcement investigatory records, which are defined by ORC Section 149.43(A)(2) as any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:
   a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised.
   b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity.
   c) Specific confidential investigatory techniques or procedures or specific investigatory work product.

d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

5. Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

6. DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

7. Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information. "Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides;

b) Information compiled from referral to or participation in an employee assistance program;

c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee , youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's compensation unless the amount of the deduction is required by state or federal law;

f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

8. Information pertaining to the recreational activities of a person under the age of eighteen.

9. Records the release of which is prohibited by state or federal law.

10. In limited circumstances, any employee home address may not be a public record.

11. Employee social security numbers.

12. Security and Infrastructure records.

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 is being passed on an emergency basis to formalize further the policy adopted by Council at its August 4th Meeting by motion, so that it can be distributed to both employees, to the general public, and to any persons requesting Police Department Video Record(s), and shall be in full force and effect upon adoption.

Charles B Hawk

Mayor Charles B. Hawk

ATTEST:

K. Kris King

Village Clerk Treasurer K. Kris King

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 October 6, 2025.

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.

K. Kris King

Clerk K. Kris King