

Body-Worn Camera Policy and Procedure for Code Enforcement Personnel

Lake County Code Enforcement Body-Worn Camera

Background:

The County of Lake's Code Enforcement Department directly serves the public to improve quality of life issues, as well as protect the health and overall safety of the county's residents. Code Enforcement Officers work in partnership with the Lake County Sheriff's Office and other county departments to educate, prevent, investigate, and enforce standards and site violations of the County of Lake's Municipal Code as well as all state building and cannabis codes related to construction and cultivation within the county.

Across the county police and sheriff's departments are actively using body-worn cameras to effectively monitor and record enforcement interactions with the public and create transparency and accountability to those they serve. Lake County Sheriffs Department has issued Body-Worn Cameras (BWC's) to each of their personnel responsible for enforcement actions in our county. These recordings have been vital in accurately recording public interactions and enforcement actions. The recordings also provide vital information to help bring transparency and potentially reduce civil liability to individual officers and departments of Lake County.

Discussion:

Fiscal Impact:

Environmental Impact:

This activity is not defined as a project under CEQA (Section 15378 CEQA Guidelines)

Options:

Attachments:

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Attachment 1

Body-Worn Camera Policy and Procedure for Code Enforcement Personnel

Body-Worn Camera Policy and Procedure for Code Enforcement Personnel

1. Purpose and Scope:

This policy provides procedures for the use of portable Body-Worn Cameras (BWC's) by the Lake County Code Enforcement Officers while in the performance of their official duties. Video and audio recordings of contacts between Code Enforcement Officers and members of the public will provide an objective record of these contacts and enhance the county's enforcement efforts, limit civil liability, increase transparency, enhance professionalism, and elevate the delivery of officer training.

Code Enforcement Officers shall utilize these devices in accordance with the provisions in this Policy to maximize the effectiveness of the audio/video documentation, achieving operational objectives, and ensure evidence integrity. The procedures apply to all Code Enforcement Officers, Supervisors, and Managers.

2. Definitions:

- A. "Code Enforcement Officer" means an employee who, under the direction of the Lake County Community Development Department Director, investigates potential violations and enforcement of the county municipal codes, including building, zoning, illegal dumping and cultivation of cannabis.
- B. "Evidentiary Recording" means a recording of an interaction with a member(s) of the public that resulted in the Code Enforcement Officer issuing a formal warning, a notice of violation, or an administrative citation.
- C. "Non-Evidentiary Recording" means a recording of an interaction with a member(s) of the public that did not result in the Code Enforcement Officer issuing a formal warning, a notice of violation, or administrative citation.
- D. "Redaction" the process of removing sensitive or confidential information from documents or video recordings.

3. Operation and Use:

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- A. The county will use the Axon recording device. Use of the BWC is mandatory for all Code Enforcement Officers that are designated to use a BWC.
- B. Code Enforcement Officers shall wear the BWC at all times while on duty. BWC's shall always be worn in a manner and location on the uniform that is conducive to effective filming and evidence gathering, taking into consideration differences in body shape, sizes, and gender. When not in use, the BWC must be stored in the Axon docking location or other authorized storage locations.
- C. Code Enforcement Officers shall use the following procedures when using BWC's:
 - 1. Arrive at location of Code Enforcement Action.
 - 2. Immediately activate BWC prior to exit of vehicle and/or prior to entering private or commercial property.
 - 3. Announce yourself and reason for your visit and inform property owner or agent of active recording in progress.
 - 4. **Non-Code Enforcement Activity:**
 - 4.1 Code Enforcement Officers shall not record informal non-code enforcement interactions with the public, such as providing directions, engaging in general conversations, or during community outreach events. Should the nature of the encounter change to an enforcement action, the Code Enforcement Officer shall begin recording the interaction as soon as reasonably safe to do so.
 - 4.2 BWC's shall not be activated in dressing rooms, locker rooms, and/or restrooms unless performing legitimate code enforcement actions. Recordings of individuals should be limited when receiving treatment in medical treatment environments, and when possible, should refrain from recording exposed genitals or sexually sensitive areas.
 - 4.3 Officers shall deactivate BWC when recording would capture gruesome images or persons nude that are not involved in criminal activities.
 - 4.4 No recording of individuals in religious institutions during services or hospital room and/or private patient areas in hospitals.
 - 5. **Code Enforcement Activity on Public Property:**
 - 5.1 The Code Enforcement Officer shall activate recording of the BWC immediately upon all interactions with a member(s) of the public or as

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soon as possible upon initiation of a citizen interaction, when the Code Enforcement Officer is engaging in enforcement activity.

- 5.2 Code Enforcement Officers are not required to seek permission to record the interaction, but the Officer must disclose, during the course of the interaction, that the encounter is being recorded.
- 5.3 Officers will not activate BWC to monitor persons based solely upon the person's political or religious beliefs or upon the exercise of the persons constitutional rights to freedom of speech and religious expression, petition, and assembly under the United State Constitution, or because of the content or viewpoint of the person's protected speech.

6. Code Enforcement Activity on Private Property Fully Exposed to Public View:

- 6.1 The Code Enforcement Officer shall activate use of the BWC while on private property where there is no expectation of privacy immediately upon all interactions with members of the public or as soon as possible upon initiation of a citizen interaction, when Code Enforcement Officer is engaging in enforcement activity. Private property where there is no expectation of privacy means property, such as front yards or driveways or residences or businesses, in complete public view. It does not include areas behind a gated wall, backyards, or other areas where a Code Enforcement Officer standing on public property cannot view the area.
- 6.2 The Code Enforcement Officer is not required to seek permission to record the interaction, but the Officer must disclose, during the course of the interaction, that the encounter is being recorded.

7. Code Enforcement Activity on Commercial Property:

- 7.1 The Code Enforcement Officer is not required to obtain the permission of a property owner or agent when entering commercial property for the purpose of engaging in code enforcement activities. The Code Enforcement Officer is not required to seek permission to record the interaction, but the Officer must disclose, during the course of the interaction, that the encounter is being recorded. The Code Enforcement Officer may not record any person or conversation in the commercial establishment other than the interaction between the Code Enforcement Officer and the property owner or agent.
- 7.2 Code enforcement Officer must remove themselves from any area where a phone conversation may be overheard where the party on the other end of phone call has not been notified of recording in progress.

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8. Code Enforcement Activity on Residential Property:

8.1 Before entering private property not in public view, including businesses and residential, the Code Enforcement Officer shall activate the BWC. While recording, the Officer must request permission to: (1) enter the private property and (2) request permission to use the BWC.

8.2 Code enforcement Officer must remove themselves from any area where a phone conversation may be overheard where the party on the other end of phone call has not been notified of recording in progress.

9. Code Enforcement Officer must end recording at end of interaction after leaving private or commercial property.

D. Once the Code Enforcement Officer has activated the BWC, the Officer shall not terminate the activation until the interaction with the member of the public has ended and the officer has left the private or commercial property.

E. As it pertains to cannabis inspections Code Enforcement Officer may need to obtain a warrant to enter and inspect property with BWC activated.

F. Code Enforcement Officers shall notify via email to the Code Enforcement Manager at the end of any encounter that the Officer reasonably believes may generate a complaint or if property owner or agent declined recording. Code Enforcement Officer shall take the following steps to gain approval for recording in the event of initial decline of recording by property owner or agent:

1. Deactivate camera and continue with encounter if safe to do so, or;
2. Return to office and call property owner or agent and explain why inspection and recording is necessary and attempt to gain permission to enter property and record.
3. Schedule follow up visit to the property and include supervisor/manager in inspections and attempt to gain permission to enter and record.
4. Obtain warrant to enter property and record inspection.

G. At the end of the shift, the Code Enforcement Officer shall dock the BWC in the docking station for upload of audio/video data files. Code Enforcement Officers shall dock the BWC daily to ensure that storage capacity is not exceeded, to view uploaded files, and to ensure that the device is properly charged.

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- H. The Code Enforcement Manager or his/her designee is responsible for ensuring that the category and comment section for each video/audio file is completed. Personnel assigned a BWC will still be responsible for ensuring that videos captured by their device are properly labeled and categorized within a one-week timeframe.
- I. All audio/video files are uploaded to Axon and maintained by an online cloud database managed by Axon.

4. Camera Maintenance and Care:

- A. Code Enforcement Officers are responsible for the maintenance and care of the BWC and video system. Officers shall inspect and test their BWC and all associated equipment at the beginning of their shift. They shall ensure that the BWC lens and microphone are clear of debris that may obstruct or in any way degrade images or audio and shall ensure the BWC battery is fully charged at the start of their shift and/or assignment.
- B. Any damage, malfunction or other operational problems shall be reported to the Code Enforcement Manager immediately.

5. Prohibited Actions and Conduct:

- A. County Employees may not record any of the following:
 - 1. Personal Activities.
 - 2. Personal, telephone, or video conversations without the other participant's knowledge.
 - 3. Any footage in places where there is a commonly held expectation of privacy, such as restrooms, dressing rooms, or locker rooms.
 - 4. Non-work-related activities.
- B. Code Enforcement Officers may not use BWC's for recording personal cell phone or any recording device other than the County issued BWC while on duty.
- C. Code Enforcement Officers may not use BWC's while off duty.

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- D. No County Employee may copy, release, share, disseminate, post or assist in posting on social media sites any recordings from the BWC, without the expressed written consent of the County.
- E. Code Enforcement Officers may not tamper with the BWC or alter, modify or tamper with any recording. No employee may erase any recording except as expressly provided in this Policy.

6. Review of Recordings:

A. Recordings may be reviewed by Code Enforcement Officer to:

- 1. Ensure the system is operating properly,
- 2. To assist with the preparation of a report or other writing for the purpose of an administrative citation or court hearing.
- 3. During the process of categorizing videos for storage.

B. Recordings may be reviewed by any persons attending an administrative hearing or court hearing to an administrative citation.

C. Recordings may be reviewed by any person designated by the County for the following purposes:

- 1. To prepare evidence for an administrative or court hearing.
- 2. To investigate personnel or citizens' complaint or for use in an administrative or criminal proceeding.
- 3. To document performance and level of service provided to the public.
- 4. To conduct random audits of BWC footage to monitor compliance with the program and assess overall officer performance.
- 5. To identify recordings for use as training or instructional materials.

D. Recordings may be shown for the purpose of training. If an involved employee objects to showing a recording, his/her objection will be submitted to the County or Code Enforcement Manager, to determine if the training value outweighs the employee's objection. In no event shall any recording be used or shown to ridicule or embarrass any employee.

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E. Recordings are County records subject to disclosure under the California Public Records Act (Govt Code Section 6250 et. Seq.) See Section 7 Below.

7. Records retention and Disclosure:

A. All digital records collected using the BWC are the exclusive property of the County of Lake.

B. Each Non-Evidentiary Recording shall be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled.

C. Each Evidentiary Recording shall be retained until the proceeding to which it pertains is finally completed and exhaustion of appeals process. In event recordings become part of a case file the recording shall be retained for a period of no less than five (5) years or up to seventy-five (75) years in cases involving unsolved homicides or missing persons. Code Enforcement Officers shall consult with the County Attorney or his/her designee to determine when a proceeding is finally completed.

D. Records of logs of access and deletion of data from BWC shall be retained for two (2) years.

E. Digital Recordings are government records subject to California's Public Records Act. Upon request by a member of the public to view a digital recording, personnel shall consult with the division manager or department head and consult with County Counsel when necessary to ensure compliance with the Public Records Act.

8. Redaction of Video Recordings:

The federal courts have explicit rules that must be followed for the redaction process. There are two very similar court rules regarding redaction – Rule 5.2 and Rule 49.1. Rule 5.2 is included within the federal Rules of Civil Procedures. Rule 49.1 is part of the Federal Rules of Criminal Procedure. Both regulations require the following details to be removed from court filings for the protection of individual privacy:

- Social Security Numbers and Taxpayer Identification Number: use only Last Four Digits.
- Dates of Birth: only year of birth can be left if necessary.
- Names of Minor Children: only initials are permitted.
- Home Address: if home address must be included use only city and state.
- Financial Account Numbers.

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- Follow any additional court orders about the redaction of sensitive information based on the case
- Use extreme caution and redact for security when including any of the following information:
 - Driver's License Numbers
 - Medical records
 - Employment History
 - Individual Financial Information
 - Proprietary or trade Secret Details

Further information and video evidence to be redacted including:

- Images of any minors (anyone under the age of 18 years old).
- Vehicle license plates.
- Images of individuals not involved in enforcement actions.
- Home address numbers or number plates.
- Any images deemed to be confidential, proprietary, and/or overtly personal.
- Images that could disclose confidential law enforcement techniques or procedures.
- Images that could reasonably be expected to endanger the life or physical safety of any individual.

All redactions must be performed in compliance with state and federal laws. Redactions must be performed on County approved redaction software and presented to County Counsel for final approval prior to any release. Redactions shall only be performed by approved personnel. County employees approved to perform redactions will err on the side of caution to ensure the protection of individuals rights and freedoms. The original data must remain intact and be saved according to retention guidelines.

9. Training:

A. All Code Enforcement Officers and any other person designated by the County shall receive initial training as arranged by the Code Enforcement Manager. Initial training shall include:

1. A thorough review of this Policy and Procedure with a discussion of the laws regarding privacy rights. All employees shall review and sign a statement that they have reviewed and understand this Policy prior to being issued use of a BWC.
2. Hardware operation, charging, and docking.

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3. Categorization of files, data transfer procedures, data access, security and retention guidelines, preparing and presenting digital evidence in administrative proceedings.

B. All employees using BWC's shall attend any additional training as necessary.

10. Discipline:

Employees who fail to comply with this Policy will be considered, at the discretion of management, for possible disciplinary actions up to and including termination.

1. Minor violations include but not limited to:
 - A. Failure to properly dock BWC at the end of shift.
 - B. Failure to verify working condition at beginning of shift.
 - C. Failure to categorize and/or comment for each video/audio file completed within stated timeframe.
 - D. Failure to notify Code Enforcement Manager of potential complaint via email.
 - E. Failure to properly maintain BWC.
 - F. Failure to properly wear BWC in a manner and location on the uniform that is conducive to effective filming and evidence gathering.
2. Major violations include but not limited to:
 - A. Entering a private or commercial property without activating BWC or stopping recording before leaving of private or commercial property.
 - B. Covering/blocking BWC video/Audio or otherwise causing intentional distortion of Audio/video.
 - C. Stopping recording during Code Enforcement actions for any reason other than an immediate danger to the Code Enforcement Officer.
 - D. Sharing camera footage with colleagues without official need to share or sharing with a friend, family or any member of the public via any social media, text, email or in person.
 - E. Footage being lost, deleted or not marked as evidence as required.
 - F. Any actions including but not limited to physical or verbal that may be culturally or racially insensitive or be discriminatory in any manner.