

**AN ORDINANCE AUTHORIZING THE ADOPTION OF AN EMPLOYEE AMERICANS
WITH DISABILITIES ACT POLICY AND THE ADDITION OF THE POLICY
AS DEFINED TO THE VILLAGE EMPLOYEE HANDBOOK**

WHEREAS, Brewster Village Council desires to adopt an Employee Americans with Disabilities Act Policy and to modify the Village Employee Handbook to include an Employee Americans with Disabilities Act Policy.

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

SECTION 1: The Village shall adopt an Employee Americans with Disabilities Act Policy as defined below and shall add Section 6.07 - Employee Americans with Disabilities Act Policy to the Village Employee Handbook as follows:

6.07 AMERICANS WITH DISABILITIES ACT POLICY

A. General Policy Statement

The Village of Brewster is committed to the fair and equal employment of individuals with disabilities. It is the Village's policy to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship on the Village. In accordance with the Americans with Disabilities Act (ADA) as amended, reasonable accommodations will be provided to qualified individuals with disabilities when such accommodations are necessary to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

Requests for reasonable accommodations will be handled on an individualized basis. The Village will engage in an interactive process to determine whether a reasonable accommodation is warranted, and this process is influenced by, among other things, the nature of an employee's disability, the employee's job, and the work environment.

B. Summary of Americans with Disabilities Law Requirements

The Americans with Disabilities Act (ADA) gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age and religion.

The ADA:

- requires the Village provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others.
- prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities and other privileges of employment and restricts questions that can be asked about an applicant's disability before a job offer is made.
- requires that employers make reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

C. Essential Position Functions

For each position, the position description will typically identify essential position functions. The Village Administrator will generally review position descriptions on a periodic basis to evaluate position functions designated as essential. If there are any questions about the position requirements, they should be directed to a supervisor, superintendent, or chief and the Village Administrator or Mayor.

Regular attendance is an essential function of virtually all jobs, and an individual who cannot attend work regularly may not qualify as "able to perform the essential functions of the position."

D. "Reasonable Accommodation"

The Village will seek to provide reasonable accommodation for a known disability or at the request of an individual with a disability. Many individuals with disabilities can apply for and perform the essential functions of their jobs without any reasonable accommodations. However, there are

situations in which a workplace barrier may interfere.

A “reasonable accommodation” is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the position the employee is hired to perform.

There are three (3) general types of reasonable accommodations that may be considered:

- Changes to the position application process so that a qualified applicant with a disability will receive equal consideration for the position opportunity;
- Modifications to the work environment so that the qualified individual with a disability can perform the essential functions of the position; or
- Adjustments that will allow a qualified individual with a disability to enjoy the same benefits and privileges of employment as other similarly situated employees without disabilities.

Reasonable accommodation may include, but are not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- Job restructuring, modifying work schedules, or reassignment to a vacant position.
- Acquiring or modifying equipment or devices.
- Adjusting or modifying examinations, training materials, or policies.
- Providing readers or interpreters.

The foregoing are general examples, and are not meant to be nor are they all inclusive. Based on the interactive process, other reasonable accommodations may be identified.

E. Requesting a Reasonable Accommodation: Employee Responsibility

An employee with a disability is responsible for:

- Notifying their supervisor, superintendent, or chief and the Village Administrator or Mayor of the need for an accommodation.
- Requesting an accommodation from their supervisor, superintendent, or chief and the Village Administrator or Mayor.
- Providing medical documentation regarding the disability when requested.
- Working with the Village interactively to arrive at a reasonable accommodation.

When appropriate, we may need your permission to obtain additional information from your health care provider or other medical or rehabilitation professionals. Once the medical documentation is received, the Village Administrator or Mayor will analyze the facts to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the employee to perform the essential functions of the position.

The Village may ask you for your input or the type of accommodation you believe may be necessary, or the functional limitations caused by your disability. Based on this interactive process, a reasonable accommodation will be selected that is most appropriate for both the Village and the individual employee. While an individual’s preference will be considered, the Village is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the Village’s operations.

A request for reasonable accommodation may be denied if it would create an undue hardship for the Village. Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the Village’s overall financial resources, the financial resources of the particular facility at which the accommodation is to be made, the number of employees at the facility, the total number of employees of the Village, and the type of operation. **Decisions as to whether an accommodation is reasonable shall be made on a case-by-case basis.**

F. Undue Hardship

The Village is required to make an accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the Village of Brewster’s “business”. The Village is not required to lower quality or production standards to make an accommodation, nor is the Village obligated to provide personal use items such as glasses or hearing aids.

G. Safety

All employees are expected to comply with all safety procedures. The Village will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A “direct threat” means a significant risk to the health or safety of one’s self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat will be made by the Village Administrator or Mayor and will be based on factual, objective evidence. A written copy of the determination will be given to the employee so that they may submit additional information and/or challenge the determination that they pose a direct threat.

H. Complaint Procedure

It is the policy of the Village to prohibit any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested reasonable accommodation. If an employee feels that they have been subject to such treatment or has witnessed such treatment, the situation should be reported using same complaint process contained in *2.06 SEXUAL HARASSMENT AND HARASSMENT POLICY, Section (E) REPORTING*. Any employee found to have engaged in retaliation against an employee for making a request for reasonable accommodation under this policy, registering a complaint under this procedure, or for assisting in investigation of any registered complaint will be subject to immediate disciplinary action up to and including discharge.

I. Definitions

1. **“Person with a disability”** means a person with a disability who:
 - Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual.
 - Has a record or history of such impairment; OR
 - Is “regarded” as having such an impairment.
2. **“Major life activities”** include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working, sitting, standing, lifting, and mental and emotional processes such as thinking, concentrating, and interacting with others.
3. **“Qualified Person”** or **“qualified person with a disability”** means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position the employee is hired to perform. To be considered a qualified individual, the employee must satisfy the requisite skills, experience, education and other job-related requirements of the position the individual holds or desires and must be able to perform the essential functions of the position, with or without a reasonable accommodation.
4. **“Substantially limits”** means an impairment is substantially limiting if it prohibits or significantly restricts an individual's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity.
 - The determination of whether an impairment substantially limits a major life activity depends on the nature and severity of the impairment, the duration or expected duration of the impairment, and the permanent or long-term impact of the impairment.
 - An impairment substantially limits an individual's ability to work if it prevents or significantly restricts the individual from performing a class of jobs or a broad range of jobs in various classes.
 - Although very short-term, temporary restrictions generally are not substantially limiting, an impairment does not have to be permanent to rise to the level of a disability. Temporary impairments that take significantly longer than normal to heal, long-term impairments, or potentially long-term impairments of indefinite duration may be disabilities if they are severe.
 - Chronic or episodic disorders that are substantially limiting when active or have a high likelihood of recurrence in substantially limiting forms may be disabilities.
 - An individual who has two or more impairments that are not substantially limiting by themselves but that together substantially limit one or more major life activities has a disability.
5. **“Record or history”** means an individual has a record of a substantially limiting impairment if the individual:

- has a history of a substantially limiting impairment, or
- has been misclassified as having a substantially limiting impairment.

6. **“Regarded”** means an individual is regarded as having a substantially limiting impairment if the individual:

- has an impairment that does not substantially limit major life activities but is treated by a covered entity as constituting such limitation;
- has an impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- has no impairment but is treated by a covered entity as having a substantially limiting impairment.

An individual is regarded as having an impairment that substantially limits the major life activity of working if the individual is treated as having an impairment that disqualifies or significantly restricts the individual from working in a class of jobs or a broad range of jobs in various classes.

7. **“Undue hardship”** is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer’s size, financial resources and the nature and structure of its operation.

J. Confidentiality

The procedure shall maintain confidentiality to the fullest extent possible.

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 Michael E. Schwab

ATTEST:

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 March 6, 2017

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, Belloni’s IGA, Brewster Federal Credit Union, Post Office and Brewster Laundromat.

Clerk K. Kris King