

**AN ORDINANCE AUTHORIZING THE ADOPTION OF AN EMPLOYEE WORK
RULE – GROSS MISCONDUCT POLICY AND THE ADDITION OF THE
POLICY AS DEFINED TO THE VILLAGE EMPLOYEE HANDBOOK**

WHEREAS, Brewster Village Council desires to adopt an Employee Work Rule - Gross Misconduct Policy and to modify the Village Employee Handbook to include an Employee Work Rule - Gross Misconduct Policy.

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

SECTION 1: The Village shall adopt an Employee Work Rule - Gross Misconduct Policy as defined below and shall add Section 8.03 - Employee Work Rule - Gross Misconduct Policy to the Village Employee Handbook as follows:

8.03 – WORK RULES: GROSS MISCONDUCT

Violation of any of the following work rules shall be considered as Gross Misconduct and constitute grounds for disciplinary action including dismissal for the first offense.

8.03.01 Dishonesty

Note: Dishonesty can be verbal or in writing.

8.03.02 Falsification

Falsification can be verbal or in writing. Falsification includes, but is not limited to, falsification of any records, reports, report-offs pertaining to absence from work, claims pertaining to injuries occurring on Village premises or time, claims for any benefits provided by the Village, personnel and work records, time cards (including altering in any way or destroying any time card; deliberately clocking in another employee's time card or permitting another employee to clock in one's own time card; or tampering with the time clock), time records, employment application and associated materials, medical records, providing false information in an attempt to be reimbursed for time not worked or for higher pay rates, submitting fraudulent requests for reimbursement of expenses, or falsification of any other Village records.

8.03.03 Malfeasance

Malfeasance is the intentional performance of an act in an erroneous way or commission of an illegal act.

8.03.04 Restricting output

Restricting output or persuading another (others) to do so, or promoting, encouraging, agitating, tormenting, engaging in or supporting suspension of work, slowdowns, or any other interruptions of work. However, an employee acting in good faith has the right to refuse to work under conditions he or she reasonably believes present an imminent danger of death or serious harm. This applies only if the condition does not normally exist or is not reasonably expected to occur during the course of the employee's regular duties. An employee who refuses to work under such conditions must notify his or her immediate supervisor that the condition poses imminent danger. There is no right for an employee to refuse to work, unless the danger is one that a reasonable person under the circumstances would conclude an imminent danger exists. Legitimate temporary stoppages due to exigent circumstances such as an injury or an emergency similarly will not be considered to be restriction of output.

8.03.05 Sabotage

Sabotage can be defined as the deliberate or intentional destruction or damage of property, including vandalizing:

- Village property; or
- property of employees; or
- resident-owned property; or
- other property, including but not limited to, motor vehicles, tools, computer hardware, software and data, equipment or other property.

8.03.06 Subversive Activity

Subversive activity can be defined as a willful act that is intended to be detrimental to the best interests of or runs counter to the established policies and procedures of the Village.

8.03.07 Weapons, firearms, dangerous ordinance, or explosives

Bringing, using, or having in possession weapon(s), firearms, dangerous ordinance, or explosives on Village premises at any time, unless lawfully authorized to possess or use as part of the employee's normal duties (i.e. police officers). This includes violation of the Village's *WEAPONS AND/OR DANGEROUS ORDINANCE* policy.

8.03.08 Theft

Theft, misappropriation, inappropriate removal, or possession of Village property. Theft, misappropriation, inappropriate removal, or possession of any property located on Village premises or work area, including but not limited to property of employees, property in the Village's custody, property of Village suppliers, or property from any person or resident. Property includes records, or records belonging to fellow employees, or especially confidential or non-public records.

8.03.09 Willful abuse or deliberate destruction of property

Willful abuse or deliberate destruction of Village property, tools, or equipment or of any property, tools, or equipment located on Village premises or work area at any time. Property includes all records.

8.03.10 Provoking, instigating, or participating in a fight

Fighting, provoking or instigating a fight, participating in fighting, threatening violence, assaulting, striking, or battering fellow employees, residents, or any persons in the workplace during working hours or on Village property, or at any time while the employee is on duty (Village time), or any other act of violence, unless lawfully authorized to do so as a part of the employee’s normal duties (i.e. police officers).

8.03.11 Striking a supervisor

Striking a supervisor at any time in connection with any matter relating to employment.

8.03.12 Commission or conviction of a felony

Commission or conviction of a felony while on Village premises, and/or while the employee is on duty (Village time), and/or with Village property or Village equipment.

Commission means committing any violation of federal, state, or Village laws, statutes, or rules, although the conduct may not have resulted in a criminal charge, indictment, prosecution or conviction.

Conviction means any conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony.

8.03.13 Interfering with or refusing to cooperate in an investigation

Interfering with, failing or refusing to cooperate with, misleading, withholding information, or lying in a Federal, State, County, Village, or other public department/officer in the performance of their job.

8.03.14 Refusing to answer questions in an investigation

Refusing to answer questions in an investigation wherein the employee has been given a “Garrity Warning”.

8.03.15 Refusing to provide testimony

Refusing to provide testimony in court, during a hearing, investigation, or proceeding involving the Village unless privilege against self-incrimination applies.

8.03.16 Absence without leave or reporting off.

An unauthorized absence of three (3) consecutive scheduled work days shall be considered as a voluntary resignation.

8.03.16 Violation of a Last Chance Agreement

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 January 22, 2019

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