

**AN ORDINANCE AUTHORIZING THE ADOPTION OF AN EMPLOYEE WORK RULE –
SERIOUS OR 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 - Serious or Gross Misconduct Policy and to modify the Village Employee Handbook to include an Employee Work Rule - Serious or 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 - Serious or Gross Misconduct Policy as defined below and shall add Section 8.04 - Employee Work Rule - Serious or Gross Misconduct Policy to the Village Employee Handbook as follows:

8.04 – WORK RULE: SERIOUS OR GROSS MISCONDUCT

Violation of any of the following work rules shall be considered serious or gross misconduct and constitute grounds for disciplinary action ranging from suspension to dismissal for the first offence.

8.04.01 Reporting to the work place under the influence of alcohol or drugs

Reporting to the work place under the influence of alcohol, any intoxicant, any narcotic, any barbiturate, any amphetamine, any hallucinogen, or any other drug or use by the employee while they are on Village property or on duty (Village time), especially while operating Village-owned vehicles or equipment; or consumption of alcohol, any intoxicant, any narcotic, any barbiturate, any amphetamine, any hallucinogen, or any other stimulating or depressing drug and/or violation of the Village’s Drug Free Workplace Policy while they are on Village property or on duty (Village time), especially while operating Village-owned vehicles or equipment. (Note: This includes employees who are instructed to refrain from operating vehicles or equipment when/while a Doctor’s prescribed medication indicates that he or she might be impaired.)

8.04.02 Alcohol or drugs in the workplace

Bringing to work, consuming or using, possessing, transporting, selling, distributing, promoting the use of, or being under the influence of, alcohol or intoxicants, any narcotic, any amphetamine, any hallucinogen, or any other drugs on Village property or while they are on duty (Village time).

Employee's prescription and/or over the counter medicine are excluded provided the employee is in compliance with either advisory for use of said medicine and/or instructions from a prescribing doctor.

This section does not apply to the Police Department when it is necessary in the exercise of their duties to take control of alcohol and/or intoxicant and/or narcotic and/or any barbiturate, any amphetamine, and hallucinogen, or any other drug when in compliance with Police Department rules and regulations.

This section does not apply to Fire/EMS employees when it is necessary in the exercise of their duties to take control of alcohol and/or intoxicant and/or narcotic and/or any barbiturate, any amphetamine, and hallucinogen, or any other drug and/or to administer/transport/possess drugs related to their duties when in compliance with Department rules, regulations, and/or protocol.

8.04.03 Consumption in Uniform

Consumption of alcohol, any intoxicant, any narcotic, any barbiturate, any amphetamine, any hallucinogen, or any other stimulating or depressing drug or use by an employee while the employee is in a uniform or clothing bearing a Village or Department insignia, either on or off duty.

Employee's prescription and/or over the counter medicine are excluded provided the employee is in compliance with either advisory for use of said medicine and/or instructions from a prescribing doctor.

8.04.04 Threatening, intimidating, coercing, abusing, or interfering with any person

Threatening, intimidating, coercing, abusing, or interfering with any person, including a fellow employee or supervisor, on or off Village premises at any time and/ or in connection with any matter relating to employment or Village events.

8.04.05 Sleeping on duty

Sleeping on duty (Village time). Note: Employees of the Fire/EMS Department on 24 hour shift are exempt during hours designated by the Fire Chief.

8.04.06 Immoral conduct.

8.04.07 Insubordination

Insubordination can be defined as disregarding, disobeying, refusing, ignoring, or failure to carry out an order or instructions of a supervisor. Insubordination can also include disrespectful conduct towards a supervisor.

8.04.08 Commission or conviction of a crime: On Duty or In Uniform

Commission of any crime means at or above the level of a misdemeanor (except minor traffic violations) while on Village premises, and /or while the employee is on duty (Village time), and/or with Village property or Village equipment, and/or while an employee is in a uniform or clothing bearing a Village or Department insignia. Commission of any crime also 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 to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony.

8.04.09 Neglect of Duty

8.04.10 Nonfeasance

Nonfeasance is the non-performance of an act which should be performed.

8.04.11 Incompetency

8.04.12 FLSA violation

A purposeful violation of the Village’s FLSA Policy and/or any associated Federal or State Law(s).

8.04.13 Harassment violation

Unlawful harassment or violation of the Village’s harassment policy.

8.04.14 Ethics violation

Violation of the Village’s Ethics policy, Ohio Revised Code ethics provisions, or using or attempting to use employment with the Village or knowledge acquired while working for the Village for personal gain or advantage, in a manner which would violate the ethics laws of the State of Ohio pertaining to public employees, or any other violation of said ethics laws.

8.04.15 Withholding Information

Withholding information which potentially threatens the safety and/or security of the Village, Village operations, Village employees, or the general public.

8.04.16 Refusing to allow inspection

Refusing to allow announced or unannounced, random or nonrandom inspection of an any Village electronic devises (including but not limited to computers cellular telephone); Village buildings; Village provided storage or lockers; Village vehicles; Village desks or files; or any other Village owned property, or packages, bags, boxes, coats, purses, etc. (for the purposes of, but not limited to, determining possession of property of others, weapons, alcohol, illegal drugs, etc.).

8.04.17 Operating Without a License

Driving any motor vehicle while on Village business, without a valid applicable operator’s license.

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