

**AN ORDINANCE AUTHORIZING THE ADOPTION OF AN EMPLOYEE WORK
RULE: SERIOUS 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 Misconduct Policy and to modify the Village Employee Handbook to include an Employee Work Rule: Serious 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 Misconduct Policy as defined below and shall add Section 8.05 - Employee Work Rule: Serious Misconduct Policy to the Village Employee Handbook as follows:

8.05 – WORK RULE: SERIOUS MISCONDUCT

Violation of any of the following work rules shall be considered serious misconduct and constitute grounds for disciplinary action ranging from a reprimand to a suspension for the first offence, or for severe violations, constitute grounds for discipline ranging from suspension to termination for a first offence.

Severity of Conduct May Elevate Discipline

A first offense **may** result in a written warning rather than suspension or termination, provided the offense is not severe. However, employees are on notice that a severe or egregious offense of any of the following rules shall serve as grounds for disciplinary action ranging from suspension to dismissal **for the first offense**. The fact that an employee (or other employees) has not been suspended or terminated for a first offense is **NOT PRECIDENTIAL**, especially for a severe or egregious offense.

For a severe or egregious violation of any of the following rules, a first offense may be considered (elevated) to gross misconduct, and therefore subject the employee to discipline up to termination for a first offense.

Examples to illustrate the differences in severity that would elevate a violation from serious misconduct to gross misconduct, and thereby elevate the potential discipline (not an exhaustive list), are:

- Discourteous treatment of the public where the employee is rude would be a violation of 8.05.01, and would be considered serious misconduct, and constitute grounds for disciplinary action ranging from a written reprimand to a suspension for the first offence. However, if an employee were to berate a member of the public and throw their paperwork at the member of the public while doing so, it would also be a violation of 8.05.01, **BUT** such egregious conduct would elevate the violation to gross misconduct and subject an employee to discipline up to termination for a first offence.
- Unauthorized use of a Village vehicle where an employee stops at a store for a personal errand would be a violation of 8.05.05 and would be considered serious misconduct and constitute grounds for disciplinary action ranging from a written reprimand to a suspension for the first offence. However, if an employee were to “loan” a Village vehicle to a family member to take the vehicle on an unauthorized “road trip” of multiple days and high mileage to move back to college, it would be considered a violation of 8.05.05, **BUT** such egregious conduct would elevate the violation to gross misconduct and subject an employee to discipline up to termination for a first offence.

8.05.01 Discourteous treatment of the public

Treatment of customers/public in a discourteous, inattentive, or unprofessional manner.

Note: A first offense of discourteous treatment of the public may result in a verbal or written warning rather than suspension or termination, provided the offense is not severe. However, employees are on notice that a severe or egregious offense of discourteous treatment of the public shall serve as grounds for disciplinary action ranging from suspension to dismissal for the first offence. The fact that an employee (or other employees) has not been suspended or terminated for a first offense is **NOT PRECIDENTIAL**, especially for an offense where the discourteous treatment is severe or egregious. We are employed to serve the public!

8.05.02 Use of abusive, profane, or improper language

Use of abusive, profane, or improper language to the public, to fellow employees, or to supervisors.

8.05.03 Creating conflict

Creating conflict with co-workers, supervisors, clients, customers or visitors.

8.05.04 Treating co-workers in a discourteous, inattentive, or unprofessional manner

8.05.05 Unauthorized use of a Village vehicle

8.05.06 Commission or conviction of a crime: Impact on Ability to Perform

Commission of any crime which impacts or reflects on an employee's ability to perform their job duties.

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 to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony.

8.05.07 Misfeasance

Misfeasance is the performance of a lawful act in an improper manner.

8.05.08 Improper performance of work and/or job

8.05.09 Careless or negligent use or operation

Careless, negligent, or improper conduct or use or operation of Village tools or equipment, which leads to damage or destruction of Village or resident-owned property, including improper disposal of waste material (as stipulated in the Federal Resource Conservation & Recovery Act).

8.05.10 Violation or disregard of safety rules or safety practices

Violation of, or disregard of, safety rules or safety practices; carelessness, or endangering the life or safety of another person.

8.05.11 Horseplay, malicious mischief, or practical jokes

Engaging in horseplay, malicious mischief, practical jokes, disruptive activity, or other conduct which would distract, disturb, or disrupt others thereby creating an unacceptable workplace environment, or which could jeopardize the general safety, including where the possibility of fighting, harassment and other more serious problems is a possibility.

8.05.12 Mistakes

Mistakes in clerical work or reports which hinder productivity or increase costs.

8.05.13 Leaving work site or unauthorized absence from duty

Walking off the job or leaving your place of work during work hours without proper authorization of supervision or visiting departments other than the one in which you are assigned to work without proper authorization of your supervisor (except for lunch), or unauthorized absence from duty during work hours.

8.05.14 Unauthorized entry

Entering the work place or Village property (i.e. private or secure rooms) at any time other than when you are to be at work, without proper authorization.

8.05.15 Conducting personal business on Village time, or Village premises, or with Village Equipment

Employees shall not perform personal work, or perform work for another employer/organization, on Village time, on Village premises, or with Village equipment or in Village uniform.

Police related off-duty extra jobs approved by the Chief in accordance with the CBA are exempted from this prohibition.

8.05.16 Misuse of Village resources

No Village supplies or equipment is to be utilized outside the scope of the employee's assigned duties, including Village uniforms. Resources include records, especially confidential or non-public records.

Police related off-duty extra jobs approved by the Chief in accordance with the CBA are exempted from this prohibition.

8.05.17 Activity in Uniform Reflecting Negatively on the Village

Any activity while an employee is in a uniform or clothing bearing a Village or Department insignia that reflects negatively and/or has a nexus (connection) between the conduct and the Village's legitimate interests or has a nexus (connection) between the conduct and an employee's ability to perform their job duties.

8.05.18 Disruption or interference

Disrupting the normal work routine by creating unnecessary noise, by starting or participating in arguments, being involved in excessively loud or extended conversations (especially non-work related), inappropriate workplace

behavior, any other conduct that interferes with or prevents the prompt and acceptable completion of assigned job duties of the employee or a co-worker, or in any way interfering with Village operations or the work performed by co-workers during the employee's or the co-workers work hours, including making or displaying of vicious or malicious statements about other employees, any resident, or the Village.

8.05.19 Misappropriation, misuse, or removal of property

Misappropriation, misuse or removal of any property located on Village premises or work area, property of employees, property in the Village's custody, or of any property while on duty (Village time) without proper authorization, and/or possession of any Village property removed from Village premises or work area without proper authorization. Property includes records, especially confidential or non-public records.

8.05.20 Misuse of technology

Misuse of technology or electronic communication, including but not limited to misuse of computers, cellular telephones, or other electronic devices. Misuse of technology also includes loading unauthorized software on Village computers or connecting unauthorized hardware to Village computers or network.

8.05.21 Failure to comply with the policy for providing public records.

8.05.22 Failure to comply with the policy for record retention.

8.05.23 Failure to comply with the policy for travel.

8.05.24 Careless or negligent handling of Village records or information

Handling Village information (including data storage devices) or documents, such as mail, checks, personnel or confidential files, carelessly or negligently, or providing or discussing confidential information to or with unauthorized individuals.

8.05.25 Long distance calls on Village phones

Making personal long-distance telephone calls on the Village's telephones, unless authorized by a supervisor.

8.05.26 Failure to report to work and/or unauthorized absence.

Failing to report to work or being absent without just cause.

8.05.27 Failure to return to work

Failing to report when you will return to work or failure to return to work as scheduled following vacation, sick leave, FMLA, or other leave of absence.

8.05.28 Failure of a Supervisor

Failure of a supervisor to properly supervise an employee or employees; failure to enforce work rules and/or policies; failure to properly comply with Village policy and/or procedures, such as the processing and certification of employee payroll.

8.05.29 Maintenance of licenses and/or certifications

Failing to obtain, maintain, or report the **suspension or** loss of any licenses or certifications required to perform the duties of an employee's position.

8.05.30 Reporting to work and/or working while unable to perform essential functions

Reporting to work and/or working while unable to perform the essential functions of the job, or as a supervisor allowing an employee to report to work or work while unable to perform the essential functions of the job.

8.05.31 Failure to comply with proper purchasing procedure

Obligating the Village for an expense, service, or performance without prior authorization or following the proper procedure.

8.05.32 Inefficiency

8.05.33 Violation of Safety and/or Health Rules or Regulations

Violation of any safety or health rules or regulations.

8.05.34 Unauthorized disclosure of confidential information

8.05.35 Excessive absenteeism, tardiness, or any absence without notice

8.05.36 Other failure of good behavior

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