

AN ORDINANCE AUTHORIZING THE ADOPTION OF AN EMPLOYEE NEPOTISM POLICY AND THE ADDITION OF THE POLICY AS DEFINED TO THE VILLAGE EMPLOYEE HANDBOOK

WHEREAS, Brewster Village Council desires to adopt an Employee Nepotism Policy and to modify the Village Employee Handbook to include an Employee Nepotism Policy.

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

SECTION 1: The Village shall adopt an Employee Nepotism Policy as defined below and shall add Section 6.19 - Employee Nepotism Policy to the Village Employee Handbook as follows:

6.19 - NEPOTISM

While the Ethics Law does not absolutely prohibit relatives from working for the same public agency, questions of fairness and impartiality may arise in situations where a relative of an employee is hired. Further, such hires may present the appearance of impropriety to the public, even where the public official and/or the employee has fully and completely removed themselves from participating in the hiring process. The following policy is meant to address such concerns, by implementing additional conditions to assure that all hiring activity is done in a fair, open, and impartial manner. As part of the Village's efforts to maintain and project to the public the highest level of integrity in the Village Government, the Village has adopted and shall abide by the nepotism policy contained herein.

A. Nepotism Definitions

- **"Nepotism"**, as utilized in this policy, shall be defined as favoritism shown by an employee of the Village of Brewster toward another person solely on the basis of family relationship(s).
- **"Authorizing"** includes, but is not limited to, voting on, signing, or taking any other action.
- **"Employee"** means any elected or appointed officer, or employee, or agent of the Village, whether in a temporary or permanent capacity. Employee includes part-time interns, paid student help, temporary, intermittent and seasonal employees.
- **"Employing the authority or influence"** of one's position to **"secure authorization of"** includes a much broader range of activities, such as recommending, deliberating or discussing, and formally or informally lobbying any public official or employee. Interpretation of "Employing the authority or influence" by the Ohio Ethics Commission will be applied.
- **"Family member"** includes, but is not limited to, these relatives of an official or employee:
 1. Spouse or significant other, *regardless of where they live;*
 2. Child, step-child, daughter-in-law, son-in-law, adopted or foster child, and legal ward, whether dependent or independent and *regardless of where they live;*
 3. grandchild or grandchild-in-law;
 4. parents, step-parents, mother-in-law, and father-in-law, *regardless of where they live;*
 5. anyone who stood in loco parentis (acting in place of a parent and assuming the parent's rights, duties, and
 6. grandparents, step-grandparents, and grandparent-in-law, *regardless of where they live;*
 7. siblings, step-siblings, sister-in-law, and brother-in-law, *regardless of where they live;*
 8. other persons related by blood or marriage **and who permanently resides in the same household as the employee.**
 9. corresponding relatives of the employee's partner;
 10. other persons for whom the employee is legally responsible.
- **"Supervision"** means the direct ability or power to effectively recommend the hire, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, discipline or settlement of disciplinary grievances or appeals of other public employee, including the authority of a board or committee to order personnel actions.

- “Alternative supervisory arrangements” is defined as removing the responsibility or influence over employment-related benefits as listed in Section B below **AND** direct supervision over a candidate/employee.

B. Nepotism Prohibited

Under terms of this policy, all Village employees are prohibited from:

- hiring or use their positions to secure employment for their family members (authorize or employing the authority or influence of their office to authorize);
- recommending or nominating their family members for public jobs with the Village, or any other, public agencies;

To be clear, an employee is prohibited from authorizing the employment of a family member **OR** using the authority or influence of their public position to secure authorization of the employment of a family member in any employment position, including a full-time, part-time, temporary including summer positions, permanent position, including both a position in the classified or unclassified civil service, or a non-civil service position.

Even if an employee abstains from decisions, Ohio Revised Code prohibits the employee from discussing, recommending, or otherwise using the prestige of their office to secure authorization of the employment of a family member.

Furthermore, if an employee’s family member has been lawfully hired by the Village, without the employee’s involvement in the hire, the employee is prohibited from giving to, or using their public position to secure any of the following employment-related benefits for said family member:

- renewal, modification, or termination of a family member's public employment; or
- make a salary recommendation, including but limited to raises or bonuses; or
- classify and/or reclassify; or
- promotions and/or job advancements; or
- approve leave requests; or
- overtime pay or assignments; or
- performance evaluations; or
- assign work or resources; or
- transfers; or
- layoff or non-layoff; or
- recall or non-recall; or
- reprimand or non-reprimand; or
- suspension or non-suspension; or
- discipline or non-discipline; or
- discharge (terminate) or non-discharge (non-termination); or
- any benefit or other thing of value related to employment.
-

C. Family Member May Be Hired If It Is In The Best Interest of Village

Two family members can work for the Village of Brewster, provided that both are able to comply with the restrictions contained herein.

Therefore, notwithstanding the aforementioned provisions, this policy is not intended to prevent the Village from implementing personnel decisions which are in the best interest of the Village and which will most effectively enhance Village service. Accordingly, the Village shall not be prohibited from considering family members of Village employees for any of the aforementioned types of personnel actions. However, no such family member of a Village employee shall be given preference in any such personnel action(s) on the basis of family relationship. If it can be objectively demonstrated, to the satisfaction of the appointing authority having jurisdiction of the position, that the qualifications, skills, education, abilities and/or experience of the family member warrant consideration, then the family relationship is not a bar to appointment. When such personnel action(s) occurs, it shall be the responsibility of the Village Administrator, with input from the Village Law Director, to review such action(s) to ensure that such is not influenced by the aforementioned family relationships.

However, whenever any statute, resolution, ordinance, rule, or policy requires that a particular public official participate in any part of the hiring process, the family members of that official cannot be hired by the Village of Brewster.

D. Family Member Shall Not Directly Supervise Another Family Member

1. Except as provided herein, no public official or employee shall supervise any family member or person with whom they have a business association.

2. Should a supervisory conflict arise, the department shall work expeditiously to relocate or transfer one of the individuals to eliminate the conflict to the extent permitted by law and/or collective bargaining agreement. This relocation or transfer should be to a comparable position with minimal inconvenience for the transferring employee.

3. No employee in the personnel area shall review or be involved in the disciplinary actions of any family member or person with whom they have a business association.

4. Sections (E) 1,2, and 3 shall not apply to those circumstances in which:

a) A marital or other significant relationship develops subsequent to both the public official's and/or employee's employment with the department. (In this instance, the department should make reasonable attempts to avoid a supervisory conflict.);

b) The public official or employee is employed by the department prior to the appointment of the family member. The department should make reasonable attempts to assure that the public official or employee does not directly supervise their family member.

c) A family member obtains employment with the same department as the result of bumping, displacement, recall or some other non-discretionary personnel action. The department should make reasonable attempts to assure that the public official or employee does not directly supervise their family member.

E. Prohibition on Making Personnel Decisions Regarding "Family Member"

As part of this policy, if two (2) or more family members are employees of the Village of Brewster and one (1) or more such family members are in a position(s) of authority within the Village Government, the family member(s) in the position(s) of authority shall be prohibited from making any personnel decisions, such as those outlined above, or taking any such personnel actions regarding a family member employee(s).

Supervisors or managers with related individuals in their chain-of-command must recuse themselves from any employment matters as described herein. Such matters should be immediately forwarded to their immediate supervisor for resolution, and communicated to the divisional human resources office for tracking purposes.

F. Disclosure

1. Candidates

a) Generally

So that appointing authorities may be duly informed of relationships between current Village employees and an internal and external candidate for a current vacancy, all final candidates will be required to complete an Employee Relationship Declaration form for review by human resources departmental staff.

b) Position applied for reports to a "Family member"

Internal and external candidates for Village positions are required to self-disclose, at the time of application, if the position for which they are applying reports to or is supervised by a family member. Internal and external final candidates for positions must have an approved alternative supervisory arrangement in place prior to any appointment.

The Village Administrator, with input from the Village Law Director, is available to facilitate or consult with parties about notification and making alternative supervisory arrangements.

Ultimately, the Appointing Authority must approve an alternative supervisory arrangement.

If an alternative supervisory arrangement is approved by an Appointing Authority, that arrangement must be reduced to writing and signed by the Appointing Authority prior to hire and/or promotion. Said written documentation of the alternative supervisory arrangement must be submitted to Human Resources and maintained in the personnel file of all impacted employees.

If a supervisory conflict cannot be eliminated through an alternative supervisory arrangement, the hire and/or promotion will not be approved.

2. Public Officials and/or Employees

Public Officials and employees are responsible for disclosing relationships with "family members" relationships upon knowledge of a "family member" being a candidate for hire, employment-related benefits as set forth above including promotion, and the potential that a "family member" may fall under their direct supervision.

Public Officials and/or employees must notify their supervisor if any "family member" applies for a position for which they will or may be responsible for supervision or may influence the employment actions referred to in this policy.

In such instances, the Public Official and/or employee has a duty to cooperate in making alternative supervisory arrangements.

G. "Family Member" Relationships Established Post-Hire

The requirements and prohibitions set forth herein are applicable to relationships that are established post-hire.

H. Failure to Comply – Penalty

Candidates, Public Officials and/or employees who do follow the notification requirements set forth in this policy, and/or do not make alternative supervisory arrangements, and/or in any other way fail to comply with this policy (including omissions) will be subject to disciplinary action, including being subject to termination.

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 4, 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