

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

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

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

SECTION 1: The Village shall adopt an Employee Military Leave Policy as defined below and shall add Section 4.08 - Employee Military Leave Policy to the Village Employee Handbook as follows:

4.08 - Military Leave

A. Military Status – Non-Discrimination Restatement

The Village shall not refuse to employ nor shall it discharge any person because of membership with the Ohio National Guard, the Ohio Defense Corps, the Ohio Naval Militia, and the Armed Services of the United States or their auxiliaries.

B. Military Service

The Village shall not prevent any employee from performing any military service as he or she may be called upon to perform, by proper authority.

C. USERRA Leave

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the job rights of individuals who voluntarily or involuntarily leave their employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA prohibits employers from discriminating against past and present members of the uniformed services, and/or applicants to the uniformed services. USERRA applies to federally authorized deployments – it does not apply to activations under state law.

Copies of the **USERRA poster** are posted as set forth in Section 1.10 of the Brewster Employee Handbook.

D. Military Service – Leave of Absence

1. The Village of Brewster will grant a military leave of absence if an employee is absent from work because they ~~you~~ are serving in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA).
2. An employee of the Village shall be granted a leave of absence to be inducted or otherwise enter military duty. If not accepted for such duty, he or she shall be reinstated in his or her position without loss of seniority or reduction in pay rate.
3. **Military Leave Up to One (1) Month**
Eligible Village employees who are members of the Ohio organized militia or members of other reserve components of the armed forces of the United States, including the Ohio national guard, are entitled to a leave of absence from their respective positions without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each federal fiscal year in which they are performing service in the uniformed services.
4. **Military Leave in Excess of One (1) Month**
Eligible Village employees who are members of the Ohio organized militia or members of other reserve components of the armed forces of the United States, including the Ohio national guard, and who are called or ordered to the uniformed services for longer than a month, for each federal fiscal year in which the employee performed service in the uniformed services, because of an executive order issued by the president of the United States, because of an act of congress, or because of an order to perform duty issued by the governor pursuant to section 5919.29 of the Revised Code are ~~is~~ entitled, during the period designated in the order or act, to a leave of absence.

E. Military Service – Employee Responsibilities

- The employee must give their supervisor advance notice of upcoming military service as early as possible before a departure for military service, unless military necessity prevents advance notice or it is otherwise impossible or unreasonable.
- The employee must submit to their appointing authority the published order authorizing the call or order to the uniformed services or a written statement from the appropriate military commander authorizing that service, prior to being credited with that leave.
- The employee must request leave no longer than the maximum length of service (five years);
- The employee must notify their department head or Appointing Authority of the employee's intent to return to employment and apply for reinstatement (reemployment) in a timely manner.
- If an employee is on military leave for up to 30 days, the employee must return to work on the first regularly scheduled work period after their service ends (allowing for reasonable travel time).
- If an employee is on military leave for more than 30 days, the employee ~~you~~ must apply for reinstatement in accordance with USERRA and applicable state laws.

F. Military Service – Employer Responsibilities

Departments are responsible for submitting and/or maintaining all applicable documents related to processing military leaves of absence.

G. Military Service – Pay

Where applicable, without loss of pay for eligible Village employees pursuant to D 3 of this policy means that if the compensation received for such duty is less than the employee's normal pay from the Village, the employee will be paid the difference. If the compensation from such duty is greater than the employee's normal pay, then the leave shall be leave without pay.

In addition, an employee may use any available accrued paid time off, such as vacation or compensatory time in lieu of "military leave" or use flex time with approval of their Department Head.

In all other circumstances, employees will not be paid for military leave.

H. Military Service – Health Insurance

Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible.

In addition, employees who are eligible to continue health coverage must continue to make direct payment for the employee share of their health insurance plan(s) to the Village.

For military service for less than thirty (30) days, the Village will leave health insurance in place.

I. Military Service – Other Effects

Benefit accruals, such as vacations, paid sick leave, and holiday benefits, will be suspended during the leave and will resume upon employee's return to active employment.

For the purpose of determining benefits that are based on length of service (**such as longevity**), the employee ~~you~~ will be treated as if they ~~you~~ had been continuously employed.

J. Change of Schedule

Under both USERRA and military leave, the Village of Brewster may temporarily change schedules to fill a vacancy, or may hire a new employee or transfer an existing employee to perform the work of an employee while they are on military leave, or may transfer the employee's duties to another/other employees.

K. Military Service – Return to Duty

If an employee is on military leave for up to 30 days, the employee must return to work on the first regularly scheduled work period after their service ends (allowing for reasonable travel time).

If an employee is on military leave for more than 30 days, the employee ~~you~~ must apply for reinstatement in accordance with USERRA and applicable state laws.

When an employee returns from military leave (depending on the length of your military service in accordance with USERRA), they ~~you~~ will be placed either in the position they would have attained if they had stayed continuously employed or in a comparable position.

L. Military Service – Definitions

For the purposes of this policy, the following definitions apply:

1. "Eligible Village employee" means any full-time Village employee who has completed their probationary period. "Eligible Village employee" does not include part-time employees, student help; intermittent, seasonal, or external interim employees; or individuals covered by personal services contracts, unless otherwise defined for the purposes of USERRA.
2. "Service in the uniformed services" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard duty, and performance of duty or training by a member of the Ohio organized militia pursuant to Chapter 5923 of the Revised Code. "Service in the uniformed services" includes also the period of time for which a person is absent for the purpose of an examination to determine the fitness of the person to perform any duty described in this division.
3. "Month" means twenty-two eight-hour work days or one hundred seventy-six hours, or for a *public safety employee*, seventeen twenty-four-hour days or four hundred eight hours, within one federal fiscal year.
4. "Federal fiscal year" means the year beginning on the first day of October and ending on the thirtieth day of September.
5. "Uniformed services" means the armed forces, the Ohio organized militia when engaged in active duty for training, inactive duty training, or full-time national guard duty, the commissioned corps of the public health service, and any other category of persons designated by the president of the United States in time of war or emergency.
6. "Public safety employee" means a permanent public employee who is employed as a fire fighter or emergency medical technician.

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 June 6, 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