

**AN ORDINANCE AUTHORIZING THE ADOPTION OF AN EMPLOYEE FEDERAL
LABOR STANDARDS ACT (FLSA) POLICY AND THE ADDITION OF THE POLICY
AS DEFINED TO THE VILLAGE EMPLOYEE HANDBOOK**

WHEREAS, Brewster Village Council desires to adopt an Employee Federal Labor Standards Act (FLSA) Policy and to modify the Village Employee Handbook to include an Employee Federal Labor Standards Act (FLSA) Policy.

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

SECTION 1: The Village shall adopt an Employee Federal Labor Standards Act (FLSA) Policy as defined below and shall add Section 6.05 - Employee Federal Labor Standards Act (FLSA) Policy to the Village Employee Handbook as follows:

6.05 - FAIR LABOR STANDARDS ACT (FLSA) POLICY

The Village of Brewster abides by the applicable provisions of the Fair Labor Standards Act (FLSA).

A. FLSA NON-EXEMPT EMPLOYEES

It is the policy of the Village of Brewster to determine compensation issues in accordance with the Fair Labor Standards Act (FLSA) regulations, whenever applicable. Generally, non-exempt employee must be paid at least 1 ½ times their regular rate of pay for all hours worked over 40 in a workweek. Concurrently, non-exempt employees may have their pay reduced for variations in the quality and/or quantity of their work.

1. FLSA Non-Exempt Employee Complaint Procedure

The Village of Brewster and its employees are committed to administering a compensation program in compliance with the requirements of the FLSA. Thus, when an employee believes that an improper payment for hours worked in excess of 40 in a workweek has been made, the employee **must** promptly report their concern pursuant to the following complaint procedure.

a. Employees who believe they have been improperly paid should immediately contact the Clerk-Treasurer and formally report their concern pursuant to this complaint procedure.

b. The employee will be asked, in writing, using the guidance above and/or FLSA provisions, the specific circumstances of the under payment and whether it has occurred on other occasions.

c. The Clerk-Treasurer will then investigate the claim by reviewing pay records, and, possibly, by also interviewing other employees and/or supervisors, as well as the payroll representatives handling the employees pay, to determine the nature and scope of the employee's complaint.

d. If, pursuant to this review, a compensation error is found to have been made, the Village of Brewster will reimburse the employee as expeditiously as possible (but in no case longer than two pay periods from the identification of the problem).

e. If a compensation error is found, the Clerk-Treasurer will further determine if this was an isolated incident or a pattern of conduct that requires further action on the part of the Village of Brewster.

f. If warranted, the Village of Brewster may make retroactive corrections to assure that compensation deductions are completed in compliance with the FLSA.

g. The resolution of the situation will be documented (including confirmation on the part of the employee that the situation has been resolved) and placed in the employee's records.

h. Following the identification of a problem, the Village of Brewster will establish a practice to regularly audit employee pay records to ensure no further issues of a similar nature arise.

i. Employees who utilize this complaint procedure shall not be retaliated against for making use of this policy.

j. Employees with questions concerning this policy are encouraged to contact the Clerk-Treasurer.

B. FLSA EXEMPT EMPLOYEES

It is the policy of the Village of Brewster to determine compensation issues in accordance with the Fair Labor Standards Act (FLSA) regulations, whenever applicable. Pursuant to the FLSA, certain employees may be exempt from or eligible for overtime compensation. The provisions of this section are designed to apply to employees who are not otherwise eligible for overtime compensation.

1. Deductions in Pay for Exempt Employees

Under FLSA, employees who are exempt from overtime compensation generally may not have their pay reduced for variations in the quality or quantity of work performed. Employees who feel their pay has been improperly reduced should report their concern the Clerk-Treasurer.

Under certain circumstances, the Village of Brewster may make reductions in pay of employees who are exempt from FLSA overtime. Listed below is a non-exhaustive list of some of the more common deductions that are permissible in accordance with FLSA:

a. When an employee has exhausted personal, vacation, and/or sick leave and is absent from work.

b. Penalties imposed by infractions of safety rules of major significance.

c. Unpaid disciplinary suspensions of one or more full days for serious workplace conduct violations in accordance with the Village of Brewster work rules and disciplinary policy.

d. Deductions for unpaid leave taken in accordance with a certified absence under the Family and Medical Leave Act (FMLA).

2. FLSA Exempt Employee Complaint Procedure

The Village of Brewster is committed to administering a compensation program in compliance with the requirements of the FLSA. Thus, when an employee believes that an improper deduction in pay has been made, the employee **must** promptly report their concern pursuant to the following complaint procedure.

a. Employees who believe their pay has been improperly reduced should immediately contact the Clerk-Treasurer and formally report their concern pursuant to this complaint procedure.

b. The employee will be asked, in writing, using the guidance above and/or FLSA provisions, the specific circumstances of the pay deduction and whether it has occurred on other occasions.

c. The Clerk-Treasurer will then investigate the claim by reviewing pay records, and, possibly, by also interviewing other employees and/or supervisors, as well as the payroll representatives handling the employee's pay, to determine the nature and scope of the employee's complaint.

d. **If**, pursuant to this review, a compensation deduction is found to have been made in error, the Village of Brewster will reimburse the employee as expeditiously as possible (but in no case longer than two pay periods from the identification of the problem).

e. **If** a compensation error is found, the Clerk-Treasurer will further determine if this was an isolated incident or a pattern of conduct that requires further action on the part of the Village of Brewster.

f. **If** warranted, the Village of Brewster may make retroactive corrections to assure that compensation deductions are completed in compliance with the FLSA.

g. The resolution of the situation will be documented (including confirmation on the part of the employee that the situation has been resolved) and placed in the employee's records.

h. Following the identification of a problem, the Village of Brewster will establish a practice to regularly audit employee pay records to ensure no further issues of a similar nature arise.

i. Employees who utilize this complaint procedure shall not be retaliated against for making use of this policy.

j. Employees with questions concerning this policy are encouraged to contact the Clerk-Treasurer.

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 December 18, 2017

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