

CITY OF BUCHANAN
BERRIEN COUNTY, MICHIGAN
ORDINANCE 2021.12/427, AN ORDINANCE TO AMEND THE CITY
OF BUCHANAN, MICHIGAN CODE OF ORDINANCE CHAPTER 2-
ADMINISTRATION,
TO ADD AN “ARTICLE V- CODE OF CONDUCT & ETHICS”,
AS SET FORTH BELOW,

**CITY OF
BUCHANAN
CITY CODE OF
CONDUCT**

This ordinance shall be known as the City of Buchanan Code of Conduct (“Code”).

THE CITY OF BUCHANAN ORDAINS:

.....

Section 1. Intent and Purpose.

The purpose of this Code is to establish standards of conduct for all City elected or appointed officers, board and commission members, and employees of the City (except those employees subject to a collective bargaining agreement (hereinafter “Covered Individual(s)”). This Code shall be interpreted and enforced so as to avoid even the appearance of impropriety by the Covered Individual or the City. All Covered Individuals have a fiduciary duty of care to the City and additional duties under Michigan law and City Ordinance. These duties require Covered Individuals to faithfully pursue the interests of the City, rather than individual financial or other interests or the interests of another person, business entity or organization.

As such, each Covered Individual shall have the fiduciary duty to be attentive to the City’s activities and finances. Covered Individuals shall oversee the way in which the City’s funds, assets and affairs are disposed of and managed. The fiduciary duty includes attending, being prepared for and participating in all meetings; reading and understanding financial statements and reports; asking appropriate questions, and exercising sound judgment. Breach of any duty under this Code may subject the Covered Individual to the sanctions set out in this Code and other financial or legal consequences.

Section 2. Definitions.

As used in this Code, the words or phrases below shall have the following meanings:

“Business Entity”

Any corporation, company, limited liability company, foreign or domestic corporation or company, partnership, sole proprietorship, joint venture, unincorporated entity or association, social organization, or any form of commercial or business entity.

“City”

The City of Buchanan, a municipal corporation organized and operated under the laws of the State of Michigan.

“Commercial Benefit”

Any contract, permit, license, business engagement, agreement, profit, sale of products or services, collection of or entitlement to current or future payments of money or any exchange of value or barter that, directly or indirectly, in any way benefits any Business Entity, including an

Business Entity doing business with the City or within the boundaries of the City or gives any Business Entity a competitive advantage over any competing Business Entity.

“Commission”

The Commission of the City of Buchanan.

“Confidential Information”

Any information that has been obtained by or is in the possession of a Covered Individual in the course of his or her duties for the City, which is exempt from disclosure to the public pursuant to the Michigan Freedom of Information Act, MCLA § 15.231 et seq., as amended, or pursuant to other privileges, privacy requirements, law, regulation, or policy.

“Decision”

A deliberation, review or consideration of, determination, action, advice, vote, or other disposition upon an ordinance, a motion, proposal, recommendation, resolution or any other City action.

"Gift"

Except as otherwise provided in this Code and regardless of value, any gratuity, discount, entertainment, hospitality, loan, forbearance, property or other tangible or intangible item having any monetary value including, but not limited to, cash, jewelry, food and drink, travel, lodging, and honoraria for speaking engagements, any of which are related to or attributable to an individual's status as a Covered Individual.

“Immediate Family”

- A. A Covered Individual's spouse, significant other, civil union partner or domestic partner;
- B. A Covered Individual's relatives by marriage, lineal descent or adoption, including but not limited to grandparents, parents, aunts, uncles, nieces or nephews, cousins, siblings, children, step-children, and grandchildren.
- C. An individual claimed by a Covered Individual or the Covered Individual's spouse, significant other, civil union partner, or domestic partner as a dependent under on any tax return filed under federal or state tax law.

“Ownership Interest”

A direct or indirect financial, ownership or pecuniary interest that a Covered Individual currently has or will have in:

- A. Any Business Entity in which the Covered Individual or a member of his or her Immediate Family is currently or will be an officer, executive, manager, partner, shareholder, director, member, employee, or agent;
- B. Any Business Entity in which the Covered Individual or a member of his or her immediate family controls or will control, or directly or indirectly owns or will own, any stock, membership, investment interest, ownership, or partnership interest, regardless of value; or
- C. Any person or Business Entity with which the Covered Individual currently has or will have any oral or written contract, employment contract, agency contract, a sales or purchaser relationship, or any commercial or employment relationship of any kind whatsoever.

“Private Gain”

A Covered Individual's use of any City resources, including but not limited to the City's equipment, computers, copiers/printers, facilities, supplies, or staff, which results in or is intended to result in gain or benefit of any kind for the Covered Individual. Also, any benefit which is accepted or received by a Covered Individual, or is reasonably perceived to be accepted by a Covered Individual, as payment, remuneration or a reward for the purpose of influencing a Covered Individual's decision or vote in a specific matter or for refraining from a decision, vote or the performance of an official action in a specific matter, or as an inducement for the Covered Individual to act in favor of some interest other than the public interest. Unless this standard is violated, the following types of benefits, monetary payments or reimbursements, gifts, or awards may be received by a Covered Individual:

- A. Payment of salary, compensation, or benefits to the from the City, or the payment of salary, compensation, or benefits to the Covered Individual by an employer or Business Entity other than the City pursuant to a contract or agreement where the payment is unrelated to the Covered Individual's elected or appointed position with the City;
- B. Authorized reimbursement by the City for actual and necessary expenses incurred by the Covered Individual in the course of City related business;
- C. Fees, expenses, or income, including those resulting from outside employment, which are permitted to be earned by, or reimbursed to, the Covered Individual in accordance with Michigan law, City ordinance, policies, rules, and/or regulations;
- D. Campaign or political contributions that are made and reported by the Covered Individual in accordance with Michigan law;
- E. Admission or registration fees, travel expenses, entertainment, meals, or refreshments of a value of \$100.00 or less that are furnished to a Covered Individual by the sponsor of an event, appearance, or ceremony which is related to official City business in connection with such an event, appearance, or ceremony and to which one or more members of the public are invited, or that are furnished to a Covered Individual in connection with a speaking engagement, teaching, or the provision of assistance to an organization or another governmental entity, provided the

City does not compensate or reimburse the Covered Individual for admission or registration fees, travel expenses, entertainment, meals, refreshments, costs or expenses for the same activity;

F. Admission, of \$100.00 or less value, to a charitable or civic event to which a Covered Individual is invited in his or her official capacity where any admission required of all persons attending the event is waived or paid for by a party other than the City;

G. An award of \$100.00 or less value publicly presented to a Covered Individual by an individual or a nongovernmental entity or organization in recognition of public service, acts of heroism, or crime solving;

H. An award, gift, or other token of recognition of \$100.00 or less value presented to the Covered Individual by representatives of a governmental body or political subdivision who are acting in their official capacities;

I. A gift received from a Covered Individual's Immediate Family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this Code;

J. A registration fee for a seminar or other informational conference that a Covered Individual attends in a capacity other than as a speaker, panelist, or moderator, where such registration fee that is charged for the Covered Individual's attendance is waived or paid for by a party other than the City;

K. Expenses or gratuities, including but not limited to admission fees, lodging, meals, or transportation, that are paid for the Covered Individual and are related to the Covered Individual's participation at a seminar, conference, speaking engagement, or presentation in his or her official capacity as a speaker, panelist, or moderator where such expenses are waived or paid for by a party other than the City, provided that, within ten (10) business days after the conclusion of the seminar, conference, speaking engagement, or presentation, the Covered Individual files with the Commission a statement which contains the following information for each expense that is paid for or waived or for each gratuity that is provided:

- (1) A description of the expense or the gratuity;
- (2) The amount of the expense or the gratuity;
- (3) The date that the expense was incurred, or that the gratuity was received;
- (4) The date that the expense was paid or waived, or that the gratuity was received; and
- (5) The name and address of the party that paid or waived the expense or provided the gratuity;

L. Meals or beverages of \$100.00 or less value provided to a Covered Individual by an individual or a nongovernmental organization during a meeting related to City business;

M. Anything of any value presented to or received by a Covered Individual on behalf of the City where the thing of value is offered to, and accepted by, the City;

N. Complimentary single copies of trade publications, books, reports, pamphlets, calendars, periodicals, or other informational materials that are received by a Covered Individual;

O. Compensation paid to a Covered Individual for a published work that did not involve the use of the City's time, equipment, computers, printer/copiers, facilities, supplies, staff, or other resources and where the payment is arranged or paid for by the publisher of the work; or

P. Receipt of a devise, bequest, or inheritance by a Covered Individual.

“Relative”

A person who is related to the Covered Individual as spouse, domestic partner, civil union partner, or as any of the following, whether by marriage, blood, or adoption: parent, child, brother, sister, uncle, aunt, cousin, nephew, niece, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, brother-in-law, or sister-in-law.

Section 3. Standards of Conduct.

A. Gift Ban.

Except as permitted by this Code, no Covered Individual shall intentionally solicit or accept any gift, regardless of value, from any individual or Business Entity that: (1) is seeking official action by a Covered Individual or by a public official or employee working at the direction of a Covered Individual; (2) is currently doing business or seeking to do business with the City; or (3) has interests that may be affected in any way by the performance or nonperformance of the official duties of a Covered Individual.

B. Conflicts of Interest.

(1) A Covered Individual shall not intentionally take or refrain from taking any action, vote or decision, or induce or attempt to induce any other Covered Individual or employee to take or refrain from taking any action, vote or decision on any matter pending before the City that would result in a Private Gain or Commercial Benefit for any of the following:

(a) The Covered Individual;

(b) A member of the Covered Individual's Immediate Family;

(c) The Covered Individual's employer;

(d) Any Business Entity in which the Covered Individual, a member of the Covered Individual's Immediate Family has or will have an Ownership Interest, financial, equity or ownership interest; or

(e) Any Business Entity with which the Covered Individual, the Covered Individual's Immediate Family is negotiating for or seeking employment or any other business, professional relationship, private gain or Commercial Benefit.

(2) A Covered Individual must inform herself/himself of any ownership interest or investment in any City customer, patron, franchisee, vendor, or product/service supplier that could or does create a conflict of interest under this Code. A Covered Individual must avoid personal interests, Ownership Interests and investments that influence the objectivity or independence of their judgment or conduct in carrying out their duties and responsibilities. Covered Individuals must disqualify themselves from any deliberations, decision-making, or action on behalf of the City regarding such transactions.

(3) A Covered Individual who, either directly or through the City, deals with City vendors, customers, franchisees, suppliers, banks, insurance companies, investment companies, finance companies, or other financial institutions or service providers in the course of performing any duties on behalf of the City must not use their position as a Covered Individual to influence the terms on which they transact personal business with such vendors, customers, franchisees, suppliers, banks, insurance companies, investment companies, financial institutions or service providers.

(4) A Covered Individual who is aware or reasonably should be aware that he or she has a conflict of interest under this Code shall disclose the conflict on the public record, abstain from deliberating, voting or making any decision on a related matter, and refrain from making statements which may influence the votes of other Covered Individuals on the matter.

C. Compliance with Other Standards.

A Covered Individual shall comply with the letter and spirit of all applicable local, state and federal laws, and the standards set forth in this Code and any additional ethical standards set forth by organizations relevant to the particular profession(s) of a Covered Individual. In case of any conflict or inconsistency between this Code and any other relevant ethical standards or laws, a Covered Individual shall comply with the more stringent standards in order to ensure the highest level of integrity.

D. Disclosure.

Within 30 calendar days of the effective date of this Code, all Covered Individuals shall complete and file a written disclosure with the City Commission identifying any violations of this Code or direct or indirect Ownership Interest in any Business Entity or any ownership interest that the Covered Individual expects to have. At any time after the effective date of this Code, each Covered Individual shall file a required written dated disclosure with the City Commission within thirty (30) calendar days of election, employment or appointment or within thirty (30) calendar days after a violation of this Code or Ownership Interest or arises. The City

Manager shall serve copies of all such disclosures to all members of the City Commission immediately upon receipt of a disclosure.

E. Impartiality.

A Covered Individual shall treat all members of the public with professional courtesy, impartiality, fairness, and equality.

F. Improper Use of Position.

A Covered Individual shall not use or attempt to use his or her position to secure, request, or grant any privilege, exemption, advantage, or preferential treatment for himself or herself, an Immediate Family member, or any other person or business entity. A Covered Individual shall not act as an agent, attorney, representative or advocate (whether compensated or not compensated) for another person, Immediate Family member or Business Entity in any matter pending before the City or any current or future business proposal of any nature.

G. Incompatible Employment.

A Covered Individual shall not engage in employment, or render services, for a public or private interest or Business Entity where such employment or service is incompatible or in conflict with the proper discharge or performance of the Covered Individual's duties and responsibilities, or where such employment or service can be reasonably expected to impair the Covered Individual's independence of judgment or action in the discharge of his or her official duties and responsibilities.

H. Nepotism.

A Covered Individual shall not cause the employment or any favorable employment action as to any member of the Covered Individual's Immediate Family or participate in any employment decision regarding a member of his or her Immediate Family or relative. This section shall not prohibit a Covered Individual from recommending or approving a comprehensive City budget for all employees that includes compensation or fringe benefits for an Immediate Family member.

I. Political Activity.

A Covered Individual shall not use any City equipment, computers, printer/copiers, facilities, supplies, or staff for his or her own political benefit, to seek any elective or appointive office, or for the political benefit of any other person seeking elective or appointive office, other than the use of property or facilities made available to the general public on an equal basis for fair market value and payment.

J. Confidential Information.

(1) A Covered Individual shall not knowingly use Confidential Information for actual or anticipated political purposes, personal gain or for the actual or anticipated personal gain of any other person, Immediate Family or Business Entity.

(2) A Covered Individual shall not knowingly disclose to any person or business entity any confidential information that is acquired in the course of his or her position with the City, including but not limited to employee personnel file or medical information or information provided, obtained, or discussed in a closed session of a the Commission.

K. Public property and personnel.

Except as provided by law, a Covered Individual shall not, directly or indirectly, use, attempt to use, or permit another to use any City equipment, facilities, supplies, or staff for private gain, commercial gain or Commercial Benefit.

Section 4. Media Communications and Professionalism Standards

For the purposes of this Code, media includes traditional media, such as television, radio, newspapers and electronic or social media. Social media includes internet and mobile-based applications, websites and email, for sharing and discussing information, where users can post photos, video, comments and links to other information to create content on any topic. Social media includes web-based platforms, such as but not limited to Facebook, Twitter, blogs, You Tube, subscription sites, Instagram, SnapChat, etc.

A. Media Regulations.

(1) Covered Individuals are discouraged from identifying themselves as connected to the City of Buchanan when responding to or commenting on blogs regarding personal opinions or views. If a Covered Individual chooses to identify him or herself with the City and makes or posts a media statement on a matter related to City business, the following disclaimer must be made: "These comments are my own and do not represent the position of the City of Buchanan."

(2) The following types of media statements or releases by a Covered Individual are prohibited:

(a) Cyber-bullying, stalking or harassment.

(b) Release of confidential or private data. If there are questions about what constitutes confidential or private data, contact the City Manager before release.

(c) Inappropriate use of the City's name, logo or the Covered Individual's position or title.

(d) Comments that are profane, obscene, vulgar, denigrating, threatening, insulting, bullying, or harassing or that contain or link to pornographic content.

(e) Content that promotes, fosters, or constitutes harassment or discrimination on the basis of race, color, gender, gender identity or orientation, national origin, religion, ancestry, age, sexual orientation, gender identity, disability, pregnancy or pregnancy-

related conditions, genetic information, active military status, or any other status protected by state or federal law.

(f) Sexual content or links to sexual content.

(g) Conduct or encouragement of illegal activity.

(h) Information that does or may tend to compromise the safety or security of the public, public systems or law enforcement.

(i) Content that violates legal ownership rights of any other party (e.g. copyright, trademark or trade name).

(j) Content disclosing protected health information.

(k) Content pertaining to or disclosing confidential or privileged information or pending litigation involving the City.

B. Professionalism Standards.

All Covered Individuals must treat others with respect and in a professional and courteous manner at all times, whether in person or in written communications, including media communications. Covered Individuals shall refrain from using profanities, insults, or other disparaging remarks regarding others. Covered Individuals shall make truthful, factual statements and not knowingly misrepresent, mischaracterize, or misquote information. False and/or defamatory statements are prohibited.

Section 5. Validity of Decisions; Recovery of Value.

A. A violation of this Code shall not constitute a basis for a third party challenge the validity of any decision of the Commission.

B. The value of anything transferred or received in breach of the standards set forth in this Code may be recovered by and on behalf of the City.

Section 6. Notification.

A. The City Manager shall deliver, by regular mail or email, a copy of this Code to any newly elected or appointed Covered Individual prior to the time that the Covered Individual takes office.

B. Any time that this Code is amended, the City Manager shall deliver, by mail or otherwise, a copy of the amended Code to all current Covered Individuals prior to the effective date of the amendment.

Section 7. Hearings.

A. Upon acquiring a report or reasonable suspicion of a violation of this Code by a Covered Individual the Mayor and one Commission Member or any two Commission Members may call for a hearing to be held at a regular or special meeting of the Commission to determine, by the vote of a simple majority, whether or not a violation of this Code occurred, and if so, what sanctions shall be imposed or other actions taken for the violation. The Covered Individual

charged with a violation of this Code shall not in any way participate in any review, investigation, consideration, discussion or votes concerning the alleged violation or any sanctions.

B. Hearings under Subsection A may also be held upon the Commission's receipt of a detailed, signed complaint filed against a Covered Individual by a citizen or other third party.

C. All individuals subject to hearing proceedings under this Code shall be afforded due process of law, including notice of charges, an opportunity to respond, hearing regarding the charges, and the right to representation of their choice before, during and after any hearings.

D. When a Commissioner reasonably believes that a Covered Individual has a conflict of interest that has not been declared, the Commission Member may request the entire Commission to hold a hearing to determine whether a conflict of interest exists under the provisions of this Code.

Section 8. Sanctions for Violations

A. The City Commission, following a hearing and finding of a violation under this Code, may, by a simple majority, vote to impose sanctions or take such other actions to address violations of this Code. Sanctions or actions may include reprimand, censure, termination of employment or appointment, removal from office, or change of a business relationship or contract with an individual or Business Entity, or such other sanctions or actions as provided by this Code, City Ordinance, the Commission's Bylaws or Michigan law.

B. Any sanctions imposed under this Code shall not be construed to limit, diminish or impair the rights of the City to enforce any and all contract or other laws and bring suit or seek any other remedies, penalties, fines, restitution, or forfeitures available under any applicable Michigan law.

Section 9. Effective Date

This Ordinance shall become effective ten (15) days after its enactment.

Proposed by Commission Member:

Supported by Commission Member:

Roll Call Vote:

Ayes:

Nays:

Abstain:

Absent:

MADE, PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN, ON THE _____ DAY OF _____ 20_____, AND IT WAS PUBLISHED IN THE BERRIEN COUNTY RECORD NEWSPAPER ON _____, _____, 20_____

By: _____
Sean Denison., Mayor

Kalla Langston, City Clerk

CERTIFICATION

I hereby certify that the above is a true and complete copy of an ordinance adopted by the City Commission of the City of Buchanan, County of Berrien, State of Michigan, at a regular meeting held on the _____ day of _____, 20___, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 as required by said act.

Kalla Langston, City Clerk