

**CITY OF BUCHANAN
BERRIEN COUNTY, MICHIGAN**

THE CITY OF BUCHANAN ORDAINS that CHAPTER 46 HUMAN RELATIONS, ARTICLE II.- DISCRIMINATION DIVISION 1. - GENERALLY of the City of Buchanan Code of Ordinances is hereby amended by adding the following:

**ORDINANCE 2019.06/412
NON-DISCRIMINATION**

SECTION. 1. Intent.

It is the intent of the City of Buchanan that no person shall be denied the equal protection of the laws, nor shall any person be denied the enjoyment of his or her civil rights or be discriminated against because of race, color, religion, national origin, age, sex, sexual orientation, gender identity, height, weight, marital status, or disability.

SECTION. 2. Definitions.

As used in this ordinance, the following words and phrases shall have the following meanings:

Age means chronological age.

Contractor means a person who by contract furnishes services, materials or supplies. Contractor does not include persons who are merely creditors or debtors of the City, such as those holding the City's notes or bonds or persons whose notes, bonds or stock is held by the City.

Discrimination or discriminate means to make a decision, offer to make a decision, or refrain from making a decision, based in whole or in part on the actual or perceived race, color, religion, national origin, age, sex, sexual orientation, gender identity, height, weight, marital status, or disability of another person that results in the unequal treatment or separation of any person, or denies, prevents, limits or adversely affect the benefit or enjoyment of any person, of employment, ownership, or occupancy of real property, or public accommodations and public services.

- 1) Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:
 - a) Submission to such conduct or communication is, either explicitly or implicitly, made a term or condition of obtaining employment, public accommodations, or housing;
 - b) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing; and/or
 - c) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, or housing environment.

Gender identity means a person's actual or perceived gender, including a person's gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image,

appearance, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.

Housing facility means any dwelling unit or facility used for a person to regularly sleep and keep personal belongings including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

Low Income means 80 percent of the median family income for the area, subject to adjustments for areas with unusually high or low incomes or housing costs.

Marital status means the state of being married, unmarried, divorced, or widowed.

Perceived means the perception of the person who acts, and not the perception of the person for or against whom the action is taken.

Person means an individual, agent, association, organization, corporation, limited liability company, partnership or other unincorporated or incorporated public or private entity of any kind.

Place of public accommodation means an educational, governmental, health, day care, entertainment, cultural, recreational, refreshment, transportation, financial institution, accommodation, business or other facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public, or which receives financial support through the solicitation of the general public or through governmental subsidy of any kind.

Religious Organization means a formal organization, church, group or body of communicants that is organized not for pecuniary profit that regularly gathers for worship and religious purposes and includes a religious based private school that is not organized for pecuniary profit.

Sex means the status of being a man/boy or woman/girl, and a person's conformity to sex stereotypes. Sex shall further be defined to include a person's gender identity.

Sexual orientation means real or perceived male or female homosexuality, heterosexuality, bisexuality, or asexuality.

SECTION. 3. Discriminatory housing practices.

No person shall discriminate in leasing, selling or otherwise making available any housing facilities. Requirements for fair housing and prohibitions on discrimination in housing are further set forth in Chapter 46, Division 2 of this code.

SECTION. 4. Discriminatory public accommodations practices.

No person shall discriminate in making available full and equal access to all goods, services, activities, privileges and accommodations of any place of public accommodation.

SECTION. 5. Discriminatory employment practices.

- 1) No person shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.
- 2) No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor union or apprenticeship program.

SECTION. 6. Other prohibited practices.

- 1) No person shall adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment, public accommodations or public services.

- 2) No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment, public accommodations or public services.
- 3) No agent, broker, labor union, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment, public accommodations or public services.
- 4) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this article, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.
- 5) No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this article.

SECTION. 7. Information and investigation.

- 1) In order to begin a city investigation, any person claiming a violation of this Ordinance shall file a signed, written complaint with the city manager setting forth the details, including the names, dates, witnesses and other factual matters relevant to the claim, within 180 days of the incident forming the basis of the complaint.
- 2) If the complaint alleges a violation of this Ordinance that is currently recognized or proscribed by Michigan or federal anti-discrimination statutes, the city manager may not accept the complaint and shall direct the complainant to file the complaint with the appropriate state or federal agency for review and all further determination and action. The city manager may, at their discretion, consult with city staff, legal counsel, and other individuals or agencies to make such determination.
- 3) If a complaint alleging a violation of this Ordinance is filed by a city employee and the allegations fall within the scope of city personnel policies, procedures, or a collective bargaining agreement, the city manager may not accept the complaint and shall direct the employee to proceed under such policies, procedures or collective bargaining agreement for review and all further determination and action.
- 4) In all other instances, if the complaint alleges a violation of this Ordinance that is not currently recognized or proscribed by Michigan or federal anti-discrimination statutes, the city manager or city manager's designee will commence an investigation within 21 days of receiving the written complaint. For purposes of this section, the city manager's designee is determined by the city manager and may be an internal staff member, including but not limited to the public safety director, deputy public safety director, or detective; legal counsel; investigator; expert; or any other individual(s) with training or experience necessary to conduct an investigation of the complaint filed. The city manager or city manager's designee may, at their discretion, consult with city staff, legal counsel, and other individuals or agencies when conducting an investigation.
- 5) No person shall provide false information to any authorized employee investigating a complaint regarding a violation of this article.
- 6) In the course of the investigation, the city manager or city manager's designee may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this article. If said person does not comply with such request, the city attorney may apply to the Berrien County Circuit Court for an order requiring production of said materials.
- 7) After completion of an investigation, the city manager or city manager's designee shall give written notice of the results of the investigation to the person who filed the complaint and the

person accused of the violation. If the investigation establishes that a violation of this Ordinance occurred, the city manager or city manager's designee shall attempt to resolve the matter by conciliation and persuasion or may refer the complaint to the city attorney for prosecution in a court of competent jurisdiction.

SECTION. 8. Conciliation agreements.

In cases involving alleged violations of this Ordinance, the city manager may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. A violation of such an agreement shall be a violation of this article. The city attorney may commence a civil action to enforce a conciliation agreement.

SECTION. 9. Discriminatory effects.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived color, religion, national origin, age, sex, sexual orientation, gender identity, height, weight, marital status, or disability for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons.

SECTION. 10. Exceptions.

Notwithstanding any other provision, this Ordinance does not prohibit any activity or practice determined lawful or authorized by state or federal law, including, but not limited to, the following current examples:

- 1) For a religious organization or institution to restrict any of its facilities of housing or accommodations which are operated as a direct part of religious activities to persons of the denomination. It is also permissible for a religious organization to restrict employment opportunities, educational facilities, housing facilities, and homeless shelters or dormitories that are operated as a direct part of its religious activities to persons of that denomination or who conform to the moral tenets of that religious organization.
- 2) For the owner of an owner-occupied one-family or two-family dwelling, or a housing facility or public accommodation facility devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.
- 3) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, over 55 years of age, or who are handicapped.
- 4) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women.
- 5) To discriminate based on a person's age when such discrimination is required by state, federal or local law.
- 6) To refuse to enter a contract with an un-emancipated minor.
- 7) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
- 8) To refuse to admit persons under 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.
- 9) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- 10) To provide discounts on products or service to students, seniors, or on the basis of age.

- 11) To discriminate in any arrangement for the sharing of a dwelling unit.
- 12) To the rental of housing facilities in a building which contains dwelling units for not more than two families living independently of each other if the owner of the building or a member of the owner's family resides in one of the dwelling units, or to the rental of a room or rooms in a single family dwelling by an individual if the lessor or a member of the lessor's family resides in the dwelling.
- 13) To the employment of an individual by one's family.
- 14) To the use of marital status or family status in a health or pension plan if such limitations conform to federal and state laws and regulations.
- 15) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.

This list is provided for illustrative purposes, recognizing that the status of state and federal laws change from time to time. Determinations are based on the state of the law at the time a complaint is filed.

SECTION. 11. Interpretation.

This Ordinance shall not be read to prohibit or interfere with a person's or a religious institution's free exercise of religion as protected by the First Amendment to the United States Constitution and Art. 1, § 4 of the Michigan Constitution.

SECTION. 12. Violations and penalties.

- 1) A violation of any provision of this Ordinance is a civil infraction, punishable by a fine of not more than \$500.00, plus the costs of investigation and prosecution. Upon a finding or an admission of responsibility, the court may issue and enforce any judgment, writ, or order, including injunctive relief, necessary to enforce this article.
- 2) Each day upon which a violation occurs shall constitute a separate violation.
- 3) Nothing contained in this Ordinance shall be construed to limit in any way the remedies, legal or equitable, which are available to the city or any other person for the prevention or correction of discrimination. Private actions and remedies shall be in addition to any actions for a violation which the city may take.

SECTION. 13 – Effective Date.

Introduced and filed on the 28th day of May 2019 and effective 15 days after date of adoption and publication as required by Section 7.4 of the City Charter.

MADE, PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN ON THE 10TH DAY OF JUNE 2019, AND IT WAS PUBLISHED IN THE NILES DAILY STAR ON MAY 28, 2019 and JUNE 14, 2019 and is effective in fifteen days.

PATRICIA A. MOORE, Mayor

BRENDA J. HESS, Clerk

At a regular meeting of the City of Buchanan, County of Berrien, State of Michigan (the "City"), held in said City on Monday, June 10, 2019 the Ordinance was offered by Commissioner Denison and supported by Commissioner Toerne.

YEAS: Mayor Patricia Moore, Commissioners Dale Toerne, Mark Weedon, Cameron Downey, and Sean Denison

NAYS: None

ABSTAIN: None

ABSENT: None

Certification

I hereby certify that the above is a true and complete copy of a resolution adopted by the City Commission of the City of Buchanan, County of Berrien, State of Michigan, at a regular meeting held of the 10th day of June 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to, and in full compliance with, Act Number 267, Public Acts of Michigan, 1976 as required by said Act.

Brenda J. Hess, City Clerk