



**BUFFALO CITY
METROPOLITAN MUNICIPALITY**

CODE OF CONDUCT FOR COUNCILLORS

[As per Schedule 1 amended by ss. 45 and 46 of Act 52 of 2002 and by ss. 20 and 21 of Act 19 of 2008]

GENERAL CONDUCT OF COUNCILLORS

- A councillor must perform the functions of office in *good faith, honestly and a transparent manner* and at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

ATTENDANCE AT MEETINGS

- A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when:
 - Leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
 - That councillor is required in terms of this Code to withdraw from the meeting.

SANCTIONS FOR NON-ATTENDANCE OF MEETINGS

- A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:
 - Not attending a meeting which that councillor is required to attend in terms of item of the above; or
 - Failing to remain in attendance at such a meeting.
- A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed

- from office as a councillors.
- Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purpose of this item. The uniform standing procedure must comply with the rules of natural justice.

DISCLOSURE OF INTERESTS

- A councillor must:
 - Disclose to the municipal council or to any committee or which that councillor is a member, any direct or indirect personal or private business interest that the councillor or spouse, partner or business associate or that councillor may have in any matter before the council or committee; and
 - Withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or the committee decides that the councillor’s direct or indirect interest in the matter is trivial or irrelevant.
- A councillor who, or whose spouse/partner/business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.

This section does not apply to an interest or benefit which a councillor, or a spouse/partner/business associate or close family member, has or acquires in common with other residents of the municipality.

PERSONAL GAIN

- A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor for private gain or to improperly benefit another person.
- No councillor may be a party or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.

DECLARATION OF INTERESTS

1. When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interest held by that councillor:
 - *Shares and securities in any company;*
 - *Membership of any close corporation;*
 - *Interest in any trust;*
 - *Directorships;*
 - *Partnerships;*
 - *Other financial interest in any business undertaking;*
 - *Employment and remuneration;*
 - *Interest in property;*
 - *Pension; and*
 - *Subsidies, grants and sponsorships by any organisation.*
2. Any change in the nature or details of the financial interests of a councillor must be declared in writing to the municipal manager annually.
3. Gifts received by a councillor above a prescribed amount must also be declared in accordance with sub-item (1).
4. The municipal council must determine which of the financial interests referred in sub-item (1) must be made public having regards to the need for confidentiality and the public interest for disclosure.

FULL TIME COUNCILLORS

A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld.

REWARDS

A councillor may not request, solicit or accept any reward, gift or favour for:

- Voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
- Persuading the council or any committee in regards to the exercise or any power, function or duty;
- Making a representation to the council or any committee of the council; or
- Disclosing privileged or confidential information.

UNAUTHORISED DISCLOSURE OF INFORMATION

- A councillor may not without the permission of the municipal council or a committee disclose any privileged or confidential information of the council or committee to any unauthorised person.
- For the purpose of this item, privileged or confidential information includes any information:
 - Determined by the municipal council or committee to be privileged or confidential;
 - Discussed in closed session by the council or committee;
 - Disclosure of which would violate a person's right to privacy; or
 - Declared to be privileged, confidential or secret in terms of law.
- This item does not derogate from the right of any person to access to information in terms of national legislation.

INTERVENTION IN ADMINISTRATION

- A councillor may not, except as provided by law:
 - Interfere in the management or administration of any department of the municipal council unless mandated by council;
 - Give or purport to give any instruction to any employee of the council except when authorised to do so;
 - Obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
 - Encourage or participate in any conduct which would cause or contribute to maladministration in the council.

COUNCIL PROPERTY

- A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has not right.

COUNCIL IN ARREARS

- A councillor may not be in arrears to the municipality for rates and service charges for a period longer than 3 months.

DUTIES OF CHAIRPERSONS OF MUNICIPAL COUNCILS

1. If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of the Code has been breached, the chairperson must:
 - a) Authorise an investigation of the facts and circumstances of the alleged breach;
 - b) Give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
 - c) Report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.
2. A report in terms of sub-item (1) (c) is open to the public.
3. The chairperson must report the outcome of the investigation to the MEC for Local Government in the province concerned.
4. The chairperson must ensure that each councillor when taking office is given a copy of Code and that a copy of Code is available in every room where the Council meets.

BREACH OF CODE

1. A municipal council may:
 - a) Investigate and make a finding on any alleged breach of a provision of this Code; or
 - b) Establish a special committee:
 - i) To investigate and make a finding on any alleged breach of this Code; and
 - ii) To make appropriate recommendations to the council.
2. If the council or a special committee finds that a councillor has breached a provision of this Code, the council may:
 - a) *Issue a formal warning to the councillor;*
 - b) *Reprimand the councillor;*
 - c) *Request the MEC for local government in the province to suspend the councillor for a period;*
 - d) *Fine the councillor; and*
 - e) *Request the MEC to remove the councillor from office.*
3. a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) or sub-item (2) may within 14 days of having been

notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.

b) A copy of the appeal must be provided to the council.

c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.

4. The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction in terms of sub-item (2), if a municipal council does not conduct an investigation contemplated in sub-item (1) and the MEC for local government considers it necessary.

5. The commissions Act, 1947 (Act 8 of 1947) or where appropriate, applicable provincial legislation, may be applied to an investigation in term of sub-item 4.

6. If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may:

a) suspend the councillor for a period and on conditions determined by the MEC; or

b) remove the councillor from office.

7. Any investigation in terms of this item must be in accordance with the rules of natural justice.
