

3.35 CODE OF ETHICS.

- (1) Declaration of Policy. The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a Code of Ethics for all City of Madison officials and employees. The purpose of this Code is to establish guidelines for ethical standards of conduct for all such officials and employees, to set forth those acts or actions that conflict with the best interests of the City and conflict with or are incompatible with the proper discharge of duties and required independence of judgment, and to direct disclosure by such officials and employees of private financial or personal interests in matters affecting the City. The provisions and purpose of this Code and such rules and regulations as may be established are hereby declared to be in the best interests of the City of Madison.
- (2) Definitions. As used in this section:
 - (a) "Anything of value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the City, money or items which are permitted and reported under Sec. 3.35(6), political contributions which are reported under Ch. 11, Wis. Stats., or hospitality extended for a purpose unrelated to City business by a person other than an organization.
 - (b) "Associated," when used with reference to an organization, includes any organization in which an individual or a member of her or his immediate family is a director or officer or owns or controls, directly or indirectly, and severally or in the aggregate, at least 2% of the outstanding equity. Notwithstanding the foregoing, an elected official who is appointed by the Mayor and approved by the Council to serve as an officer or board member of a private non-profit organization does so in his/her official capacity as a representative of the City of Madison and, as such, is not "associated" with the private organization. (Am. by Ord. 12,371, 5-6-99; Renum. by ORD-07-00048, 4-12-07)
 - (c) "Economic interest" or "financial interest" means a business or cause in which a person or her or his immediate family member has a concern, responsibility, share, right or title in the ownership of property in a commercial or financial undertaking which relates to the source, production, distribution or use of the person's or immediate family member's income, wealth or goods, including debts, or which affects or is apt to affect the welfare or the material resources of the person or immediate family member.
 - (d) "Immediate family" means 1. An individual's spouse or designated family or registered domestic partner, or 2. An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of her or his support from the individual or from whom the individual receives, directly or indirectly, more than one-half of her or his support.
 - (e) "Organization" means any public or private, profit or non-profit, religious, educational, charitable or political organization or entity but does not include governmental bodies.
 - (f) "Personal interest" means any interest greater than nominal, direct or indirect, arising from blood, marriage, adoption, guardianship or designated family or registered domestic partner relations or from close business, political or other associations.
- (3) Application. This section applies to the following persons:
 - (a) Elected officials of the City;
 - (b) All employees of the City;
 - (c) All members of City boards, committees, commissions, subcommittees and ad hoc committees.

Wherever the word "incumbent" appears in this section, it shall mean all those included in subdivisions (3)(a), (b), (c).

- (4) Responsibility of Public Office. Incumbents are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and municipality. They are bound to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Incumbents shall adhere to the rules of work and performance established as the standard for their positions by the appropriate authority. They shall not exceed their authority or breach the law or ask others to do so, and shall work in full cooperation with others unless prohibited from so doing by law or by officially recognized confidentiality of their work.
- (5) Standards of Conduct.
- (a)
 1. Use of Office or Position. No incumbent may use or attempt to use her or his position or office to obtain financial gain or anything of value or any advantage, privilege or treatment for the private benefit of herself or himself or her or his immediate family, or for an organization with which she or he is associated. This paragraph does not prohibit an incumbent from using the title or prestige of her or his office to obtain campaign contributions that are permitted and reported as required by Ch. 11, Wis. Stats.
 2. Influence and Reward. No person or entity may offer or give to an incumbent or member of an incumbent's immediate family, directly or indirectly, and no incumbent may solicit or accept from any person or entity, directly or indirectly, anything of value if it could reasonably be expected to influence the incumbent's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on her or his part.
 3. Limitations on Actions. Except as otherwise provided in paragraph 4, no incumbent may:
 - a. Take any official action affecting, directly or indirectly, a matter in which she or he, a member of her or his immediate family, or an organization with which she or he is associated has a financial or personal interest;
 - b. Use her or his office or position in a way that produces or assists in the production of a benefit, direct or indirect, for her or him, a member of her or his immediate family either separately or together, or an organization with which the incumbent or her or his immediate family member is associated.
 4. Paragraph 3. does not prohibit an incumbent from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit an incumbent from taking official action with respect to any proposal to create, modify, or repeal a City ordinance, resolution or matter benefiting the public.
 - (b) Privilege and Advantage. No incumbent shall request or permit the use of City-owned vehicles, equipment, materials, or property for personal convenience or profit, or for that of another, except when the same are available to the public generally or except where otherwise authorized by the Common Council. No incumbent shall grant any privilege, anything of value, special consideration, treatment or advantage to any person beyond that which is available to every other person except as may be specifically provided for by law.
 - (c) Outside Employment. No incumbent shall engage in or accept employment or render service whether compensated or uncompensated when such employment or service would impair or reasonably appear to impair her or his independence of judgment or action in the performance of official duties.
 - (d) Disclosure of Information. No incumbent may intentionally use or disclose information gained in the course of or by reason of her or his official position or activities in any way that could result in the receipt of anything of value for herself or himself, for a member of her or his immediate family, or for any other person or entity if the information has not been communicated to the public or is not a public record.

- (e) Contracts or Leases. No incumbent, member of an incumbent's immediate family, nor any organization in which the incumbent or a member of her or his immediate family owns or controls at least 2% of the outstanding equity, or indebtedness, or voting rights may enter into any contract or lease involving a payment or payments of more than \$3,000 within a 12-month period, in whole or in part derived from funds administered by the City, unless the incumbent has first made written disclosure of the nature and extent of such relationship or interest to the Common Council and to the department acting for the City in regard to such contract or lease. Any contract or lease entered into in violation of this provision may be voided by the City in an action commenced within 3 years of the date on which the Common Council, or the department or incumbent acting for the City in regard to the allocation of City funds from which such payment is derived, knew or should have known that a violation of this subsection had occurred. Nothing in this provision affects the application of Sec. 946.13, Wis. Stats. or subsequent amendments of that section relating to an incumbent's activity concerning a direct or indirect financial interest in a proposed City contract.
- (f) Disclosure and Disqualification.
1. An elected official who has or whose immediate family member has a financial or personal interest in any matter coming before the Common Council shall disclose on the records of the Common Council the nature and extent of such interest. This provision shall not apply if the elected official disqualifies herself or himself from participating in discussion of the matter and from voting on it. An elected official shall disqualify herself or himself from discussing and voting if the matter under consideration involves her or his or her or his immediate family member's financial or personal interests to the extent that such interests conflict or appear to conflict with her or his official duties or would impair or reasonably be expected to impair her or his independence of judgment or actions.
 2. Any other incumbent who has or whose immediate family member has a financial or personal interest in a matter coming before the Common Council or any board, committee, commission, sub-committee or ad hoc committee, and who participates in discussions with or gives an official opinion to such body, shall disclose on the records of such body the nature and extent of such interest. This provision shall not apply if the incumbent disqualifies herself or himself from participating in discussion of the matter and from voting on it.
 3. In the event a member of a City board, committee or commission is required to disqualify herself or himself from participating or voting on a matter which comes for official action before the board, committee or commission of which she or he is a member and a member of the board, committee or commission requests the disqualified member to leave the room that member shall physically absent herself or himself from that portion of the meeting involving discussion, deliberations or votes related to that matter, and the minutes of the meeting shall reflect her or his absence.
- (g) Receipt of Anything of Value. No incumbent may receive and retain any transportation, meals, entertainment, fee, food, beverage, or reimbursement therefore, nor any honoraria, service fee or contract payment or anything of value except in accord with Section 3.35(6).
- (h) Representing Private Interests.
1. No elected official shall appear on behalf of private interests with or without compensation before any City entity nor represent private interests in any action or proceeding against the City. No member of any board, committee or commission of the City shall appear on behalf of private interests with or without compensation before the board, committee or commission of which she or he is a member nor represent private interests in any action or proceeding against the City which involves, is related to or arises out of the work or jurisdiction of the board, committee or commission of which she or he is a member or negotiate with any incumbent in connection with any such matter. No employee of the City shall appear on behalf of private interests with or without compensation before any entity for or with which they work nor appear on behalf of private interests, with or without compensation, in any action or proceeding against the City.

2. These provisions shall not apply to the appearance of any such incumbent when subpoenaed as a witness by a party involved in litigation which may also involve the City nor to employee representatives of a certified labor organization representing any group of City employees.
 3. An elected official may appear before any City entity and confer with any incumbent on any matter in the course of her or his duties as a representative of the electorate or in the performance of public or civic obligations, however, she or he shall not accept any compensation therefore.
- (i) **Post-Employment/Appointment Restrictions.**
1. No former Mayor, for 12 months following the date on which she or he leaves office may appear, with or without compensation, on behalf of any person or entity, before any City entity or confer or negotiate with any incumbent on any matter which may reasonably be expected to come before any City entity for official action.
 2. No former alderperson, for 12 months following the date on which she or he leaves office may appear, with or without compensation, on behalf of any person or entity, before any board, committee or commission or before the Common Council or negotiate with any incumbent on any matter which may reasonably be expected to come before such board, committee or commission or the Common Council for official action.
 3. No former permanent City employee, for 12 months following the date on which she or he leaves City employment, may appear, with or without compensation, on behalf of any person or entity, before any City entity for or with which they formerly worked or negotiate with any current employee of such entity on any matter which may reasonably be expected to come before such City entity for official action. This provision does not apply to former employees or former elected officials seeking employment by the City.
 4. No former member of a City board, committee or commission, for 12 months following the date on which her or his membership ends, may appear, with or without compensation, on behalf of any person or entity, before the board, committee or commission of which she or he was a member or negotiate with any incumbent on any matter which may reasonably be expected to come before such board, committee or commission for official action.
 5. No former incumbent, for 12 months following the termination of her or his incumbency, may appear, with or without compensation, on behalf of any person or entity, with regard to any matter which was under the former incumbent's responsibility within 12 months prior to the termination of her or his incumbency or in which the former incumbent participated personally and substantially within 12 months of the termination of her or his incumbency before any City entity or negotiate with any incumbent in connection with any judicial or quasi-judicial proceeding, application, contract, claim, charge or matter which may give rise to a judicial or quasi-judicial proceeding.
 6. Nothing in this subdivision shall prohibit a former incumbent from representing herself or himself before any City entity in relation to a non-commercial personal undertaking at any time.
- (j) **Inquiries Permitted.** This subsection does not prohibit an elected official from making inquiries for information on behalf of a person or organization if she or he receives no compensation therefore beyond the City salary and other compensation or reimbursement to which the elected official is entitled by law.
- (k) **Employee Restrictions.** No employee of the City shall engage in non-City related activities for which compensation is received to such an extent as to interfere with the proper performance of the duties and responsibilities of her or his official position.

(6) Honoraria, Fees and Expenses.

- (a) During her or his term, no elected official or member of any board, committee or commission shall receive and retain anything of value unless the activity or occasion for which it is given did not arise from her or his use of the City's time, information, facilities, equipment, services or supplies not generally available to all residents of the City or from the recipient's holding or having held her or his position and was paid for a purpose unrelated to legislation, policies or issues being considered by or affecting the City.
- (b) During her or his term, no elected official or member of any board, committee or commission shall receive and retain from the City or on behalf of the City transportation, lodging, meals, food or beverage, or reimbursement therefore unless the same were incurred or received primarily for the benefit of the City and not primarily for her or his private benefit or that of any other person.
- (c) During her or his term, no elected official or member of any board, committee or commission shall receive and retain honoraria such as money or anything of value other than commemorative or other items of nominal value for or in recognition of activities related to or arising from their City roles or positions. Such persons may accept and retain from persons or entities other than the City the cost or reimbursement of actual and reasonable expenses related to such activities whether or not such activities arise from their City roles or positions, except that elected officials may not receive and retain any such payments from a lobbyist or from a business or organization or local government that employs a lobbyist.
- (d) Employees may not use time provided under Sec. 3.32(5) for purposes of outside employment.
- (e) Employees may not receive and retain anything of value unless the employment or activity for which it is given does not arise from the employee's use of the City's time, information, facilities, equipment, services or supplies not generally available to all residents of the City. Employees shall not receive and retain from the City or on behalf of the City transportation, lodging, meals, food or beverage, or reimbursement therefore, unless the same were incurred or received primarily for the benefit of the City, and not primarily for her or his private benefit, or that of any other person.

Employees shall not receive and retain honoraria, such as money or anything of value, other than commemorative or other items of nominal value for, or in recognition of activities related to, or arising from their City roles or positions. Employees may accept and retain from persons or entities other than the City the cost or reimbursement of actual and reasonable expenses related to such activities, whether or not such activities arise from their City roles or positions.

When employees perform or provide services for persons or entities other than the City which services arise from their City employment or from the employee's holding her or his position, and the employee's compensation and expenses related thereto are paid for or reimbursed by the City, all monies received by the employee therefore shall be paid promptly to the City Treasurer.

This subdivision shall not apply to City Police Officers or Firefighters certified as emergency medical technicians hired while off department scheduled hours in accord with departmental policies and procedures or approved contracts.

- (f) Elected officials may receive and retain from a political committee under Ch. 11, Wis. Stats., transportation, lodging, meals, food or beverages, or reimbursement therefore or payment or reimbursement of costs permitted and reported in accordance with Ch. 11, Wis. Stats.
- (g) If an incumbent receives anything of value not authorized by this subsection, the incumbent shall not retain it but shall deposit the money or the equivalent cash value of anything of value with the City Treasurer or return the payment or thing to the payor or giver.
- (h) Whenever an incumbent receives anything of value permitted by this Subsection (6) from or has any fee or expense waived or reduced by a person or entity other than the City in connection with her or his official duties, she or he shall, within 10 days of the occurrence file a report with the City Clerk on forms provided by the Clerk.

- (7) Fair and Equal Treatment.
- (a) Any person who is a candidate for City employment who canvasses or contacts any member of the Common Council, an appointing authority, or any person involved in the screening or examination of applicants outside scheduled procedures, in order to obtain preferential consideration in connection with any appointment to any City position, shall be disqualified from appointment. This provision shall apply to all candidates whether or not currently employed by the City.
 - (b) No person shall receive preferential treatment in the selection process or be appointed to or hired for or promoted in a City position nor be denied appointment, employment or promotion because she or he is a member of an incumbent's immediate family. No incumbent shall use her or his position to bring about the appointment, employment or promotion of a member of her or his immediate family.
 - (c) No incumbent shall participate in any final decision in any employment matter involving an employee who is a member of her or his immediate family.
 - (d) No incumbent shall give any advantage or preferential treatment to any person in the selection process. (Cr. by Ord. 12,917, 11-23-01; Renum. by ORD-07-00048, 4-12-07)
 - (e) For the purposes of this subsection only, "immediate family" means the incumbent's spouse, domestic or designated family partner, child by blood or adoption, spouse's or partner's child, fiancé or fiancée, sibling, parent, parent-in-law, brother- or sister-in-law, uncle, aunt, niece, nephew or the spouse or partner thereof, grandparent or grandparent-in-law.
- (8) Political Activity.
- (a) No employee while on duty or on official City business shall, for the apparent purpose of influencing the outcome of any referendum, or improving the chance of election of a person seeking elective office:
 - 1. Wear or display any campaign material.
 - 2. Distribute any campaign literature.
 - 3. Solicit, receive or give subscriptions, contributions or service for any candidate or referendum position.
 - 4. Actively campaign for any candidate or any referendum position.
 - (b) No employee while on duty or other official City business or off duty shall in any way coerce or attempt to coerce subscriptions, contributions or service from subordinate employees in support of a political party or a candidate for elective office or for or against a referendum position, or retaliate against or reward an employee for refraining from participating in any political activity. No employee on or off duty shall use her or his title or position or indicia thereof in any elective political activity.
 - (c) This subsection does not apply to a response by a legal custodian or subordinate of the custodian to a request to locate, reproduce or inspect a record under Sec. 19.35, Wis. Stats., if the request is processed in the same manner as the custodian or subordinate response to other requests to locate, reproduce or inspect a record under such section or to an employee providing other information within the knowledge of the employee by virtue of her or his City position if such information is made equally available upon request to any other person.
 - (d) Police officers and firefighters shall observe the applicable rules of the Police and Fire Departments relating to political activity.
 - (e) No elected official or candidate for a City elected office shall promise an appointment to any municipal position as an apparent reward for any political activity.
 - (f) Pursuant to 5 U.S.C. Sec. 15.02, employees whose positions are federally funded in whole or in part may not be candidates in partisan elections without first being granted an unpaid leave of absence.

(9) Disclosure of Interests.

(a) Definitions. The following definitions apply in this subsection relating to Disclosure of Interests:

1. "Appointed official" means any officer of the City of Madison appointed pursuant to the authority set forth in Sec. 62.09, Wis. Stats., and shall include all City of Madison Department and Division Heads, but shall exclude election officials.
2. "Candidate for elective office of the City of Madison" means any person who files nomination papers and a declaration under Sec. 8.10, Wisconsin Statutes, for the purpose of appearing on the ballot for election to an office of the City of Madison or any person nominated for a City office in an election through the write-in process and who files a declaration pursuant to Sec. 8.10, Wisconsin Statutes.
3. "Elected official" means all officers of the City of Madison established pursuant to the provisions of Sec. 62.09, Wisconsin Statutes, or its authority, who are elected by the voters.
4. "Immediate family" has the same meaning as defined in Sec. 3.35(2)(d).
5. "Statement of Interests" means the factual statement filed pursuant to the provisions of this subsection which contains the information set forth in Subdivision (9)(f).

(b) Disclosure of Interests; By Whom Required.

The following shall file a Statement of Interests as provided in this subdivision:

1. Elected and appointed officials;
2. Compensated and uncompensated members of all boards, committees, commissions, subcommittees and ad hoc committees unless any demonstrate to the Ethics Board that they are not involved in the regulation of economic activity, or the expenditure or granting of funds, or the entry by the city into contracts;
3. Mayor's assistants;
4. Candidates for elective office of the City of Madison;
5. All other City employees other than clerical staff who are involved on behalf of the City:
 - a. In negotiations relating to the sale or acquisition of personal property or real estate; or
 - b. In negotiations relating to economic development projects; or
 - c. In the appraisal or assessment of property for tax purposes; or
 - d. In regulation of activities pursuant to state law or city ordinance or in enforcement of state laws or city ordinances.
6. Notwithstanding any provision to the contrary, commissioned police personnel otherwise required to file the Statement of Interests shall not be required to file the Statement due to the unique need to protect the safety of such personnel and their families and the requirement that all such personnel are bound to adhere to the provisions of the Madison Police Department Manual of Policy, Regulations and Procedures.

(c) Statement of Interests, When To File. All persons who file nomination papers for an elective office of the City of Madison shall at the time of filing of such nomination papers also file a Statement of Interests with the City Clerk. The Clerk shall omit the name of any candidate from an election ballot who fails to disclose her or his interests in accordance with the requirement of this subsection. The Clerk shall notify by registered mail any candidate whose name is to be omitted from a ballot as soon as practicable after the decision is made to omit the name.

Persons to be appointed to City boards, committees, commissions, subcommittees and ad hoc committees shall file the Statement with the City Clerk at least 10 business days before their names are submitted to the Common Council for confirmation. The Clerk shall provide a copy of the Statement to the Common Council with the submission of the name for confirmation. The Common Council shall not confirm the appointment of any nominee who has failed timely to file the Statement.

Employees who are appointed or reappointed to their positions subject to confirmation by the Common Council shall file the Statement with the City Clerk at least 10 business days before their appointments or reappointments are submitted to the Common Council for confirmation. All other employees who are required to file the Statement shall file the Statement with the City Clerk within 10 business days after they begin work as City employees.

- (d) Annual Filing. Each person required to file the Statement shall annually file an updated Statement with the Clerk no later than the first Tuesday in January of each year, except that this provision shall not apply to candidates for elected office who have filed the Statement with their nomination papers pursuant to subdivision (9)(c) of this section.
- (e) Amending the Statement of Interests.
1. If, after filing the Statement, the filer becomes aware of errors or omissions in the original Statement, she or he, as soon as possible, shall attach an Amendment to her or his original Statement to reflect accurately the required disclosures.
 2. If, after filing the Statement, any elected official or department or division head or mayoral assistant becomes aware of any change in the information contained in her or his current Statement, she or he shall amend, as soon as possible, her or his Statement to reflect accurately the change. This paragraph shall be effective on October 1, 1999.
- (Am. by Ord. 12,442, 8-6-99; Renum. by ORD-07-00048, 4-12-07)
- (f) Any amendment to the Statement which is filed after the filing of a complaint against the person required to file shall not be a defense to the complaint, but the Ethics Board may, in its discretion, consider the amendment as mitigating circumstances.
- (g) Form of Statement. The person filing any Statement of Interests required under this subsection shall file such Statement on the form approved by the Ethics Board and provided by the City Clerk, and shall supply the following information:
1. The name and address of the filer and the City office held or sought or the position of City employment.
 2. The name and address of all employers and positions of employment held as of the date the statement is filed.
 3. The identity of every organization of which she or he or any adult member of her or his immediate family is an officer or director and the identity of every organization of which she or he or any member of her or his immediate family owns or controls, directly or indirectly, severally or in the aggregate, at least 2% of the outstanding equity; provided, however, that membership only in an organization need not be disclosed and that no identification need be made of any organization which is organized and operated primarily to influence voting at an election including support for or opposition to an individual's present or future candidacy or to a present or future referendum.
 4. The name of any creditor to whom she or he or a member of her or his immediate family owes \$10,000 or more, except for credit card debt, student loans, health-related indebtedness, and mortgages on the principal residence of the person filing or of a member of her or his immediate family.
 5. The identity of all real estate within Dane County in which the person filing or any member of her or his immediate family has a direct or indirect interest, and the identity of any person or entity not disclosed under subdivision (h), owning or controlling any real estate within Dane County in which the person filing or any member of her or his immediate family has a direct or indirect interest.

- (h) In addition, all elected officials, candidates for local offices and employees who are required to file shall also disclose the identity of all stocks, bonds, debentures, other forms of debt obligations of any corporation or other business or entity collectively in excess of \$8,000 held by her or him or her or his immediate family, except mutual funds, personal checking accounts, time deposit accounts, or other savings or retirement fund accounts held by any financial institution, the United States Government, any City-approved deferred compensation program, the Wisconsin Retirement Fund or any other organization maintaining such debt obligation as part of a public employee retirement fund.
- (i) The Clerk shall send Statement of Interests forms to known filers at least 45 days before the filing deadline and a filing reminder to all City department heads and staff of all boards, committees and commissions at least 15 days before the filing deadline.

The Clerk shall notify any person who fails to timely file the required Statement of Interests. The Clerk shall notify the Comptroller of the name of any person who has not filed the Statement within 10 days of the mailing of the Clerk's notice. The Comptroller shall withhold the compensation of any such person until the Statement is filed.

The Clerk shall report to the Common Council the name of any member of any board, committee, commission, subcommittee or ad hoc committee who has not filed the Statement within 10 days of the mailing of the Clerk's notice. The Common Council shall, at the second meeting after receipt of the Clerk's notice, revoke the appointment of any such member who has not filed the required disclosure statement by the time of such Council meeting. (Am. by ORD-05-00167, 11-8-05; Renum. by ORD-07-00048, 4-12-07)

(10) Ethics Board.

- (a) There is hereby created an Ethics Board to consist of members who shall serve without compensation from the City.
- (b) The membership of the Ethics Board shall consist of 4 citizen members, 1 representative of the Mayor; the Common Council president or her/his designee who shall be an alderperson; and 1 representative of organized labor. The City Attorney shall provide necessary staff assistance to the Board, shall serve as its secretary, but shall not vote. The City Attorney shall furnish the Board whatever legal assistance necessary in the carrying out of its functions. (Am. by Ord, 13,762, 1-5-05; Renum. by ORD-07-00048, 4-12-07)
- (c) The members of the Ethics Board shall be appointed by the Mayor, subject to confirmation by the Common Council. The term of any aldermanic member appointed to the Board shall expire with the expiration of her or his term as alderperson. Terms of office of other members of the Ethics Board shall be 3 years except that when the initial appointments are made, 2 of the members shall be appointed for 1 year, 2 others for 2 years, and the remaining 3 for 3 years.
The members of the Ethics Board as of the adoption of this ordinance are reappointed and reconfirmed to serve their terms or remaining parts of their terms for which each was most recently appointed.
- (d) The Ethics Board shall elect its own chair and vice-chair and shall develop written rules of procedure which shall be submitted to the Mayor and Common Council for approval.
- (e) The Ethics Board may make recommendations with respect to amendments to this Code of Ethics Ordinance.

(11) Advisory Opinions.

- (a) When an incumbent or a candidate for City elected office has doubt as to the applicability of a provision of this code to a particular situation in which she or he is or may become involved or definitions of terms used in the code, she or he should apply to the Ethics Board for an advisory opinion and be guided by that opinion when given. The applicant shall have the opportunity to present her or his interpretation of the facts at issue and of the applicable provision(s) of the code before such advisory decision is made. It is prima facie evidence of intent to comply with this section when a person refers a matter to the Ethics Board and abides by the advisory opinion, if the material facts are as stated in the opinion request.

- (b) When a request for an advisory opinion is made, the name of the requester and the nature of the request may, at the requester's choice, be kept confidential. When confidentiality is requested, the Board shall hear and determine the request in closed session. The agenda for the meeting shall identify the session as a closed session to hear a request for a confidential opinion pursuant to this subdivision and Sec. 19.59, Wis. Stats. When confidentiality is requested, the report of the Board shall also be kept confidential, but the Board shall prepare a redacted summary of the report as a public document; however, if the requester requests in writing that the full report be made public, it shall become a part of the public record. If the requester makes public any portion of the opinion or report, all confidentiality is waived by the requester and the Board shall release the unredacted report.
- (12) Complaints.
- (a) Any resident of the City may complain to the Ethics Board about the activity of any person or entity covered by this section pursuant to rules and procedures of the Ethics Board as approved by the Common Council. If a complaint is brought under this section against any member of the Ethics Board, other than the Common Council President or designee, the Common Council Organizational Committee shall hear the complaint, acting as the Ethics Board and following the same rules, procedures and precedents of the Ethics Board. If a complaint is brought under this section against the Common Council President or designee, a panel of 3 persons shall hear the complaint in the manner provided in this subdivision. The Mayor shall select one panel member, the Common Council shall select one panel member and those selected persons shall select the third panel member. Panel members shall serve without compensation. The persons so selected shall not be subject to Common Council confirmation notwithstanding any other ordinance to the contrary.
- (b) The Ethics Board, and the Common Council Organizational Committee and the panel described in (12)(a) above when acting as the Ethics Board, may issue subpoenas and administer oaths. Fees associated with the service of subpoenas shall be paid by the person requesting the subpoena.
- (c) No action may be taken on any complaint which is filed later than 12 months after a violation of this Ethics Code is alleged to have occurred.
- (13) Sanctions. Violation of any provisions of this code should raise conscientious questions for the incumbent concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the City of Madison. If the Ethics Board determines that any person or entity has violated any provision of this code, the Board may, as part of its report to the Common Council, make any of the following recommendations:
- (a) In the case of an elected official, that the Common Council consider sanctioning, censuring or expelling the elected official;
- (b) In the case of a member of a board, committee or commission, that the Mayor or other appointing authority consider removing the member from the board, committee or commission;
- (c) In the case of an employee, that the employee's appointing authority consider disciplining or discharging the employee;
- (d) As an alternative or in addition to the sanctions imposed herein, that any person or entity violating Sec. (5)(a)2. of this ordinance not be awarded any City contract, grant, loan or any other thing of value for a period of 12 months from the date of finding of the violation or that any such contract, grant, loan or things of value be terminated, repaid, forfeited or called in.
- (e) As an alternative or an addition to the sanctions imposed herein, that any person violating the provisions of this section shall be subject to a nonreimbursable forfeiture of not more than \$500 per violation in an action brought by the City.

- (14) Logrolling Prohibited; Executive Favor; Freedom of Debate.
- (a) No member of the Common Council shall give, offer or promise to give her or his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced in the Common Council in consideration or upon condition that any other person elected to the same Common Council will give or will promise or agree to give her or his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such Common Council or shall give, offer or promise to give her or his vote or influence for or against any measure on condition that any other member will give her or his vote or influence in favor of any change in any other matter pending or proposed to be introduced in the Common Council.
 - (b) No member of the Common Council shall give, offer or promise to give her or his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced in the Common Council or that has already been passed by the Common Council, in consideration of or on condition that the Mayor approve, disapprove, veto or sign, or agree to approve, disapprove, veto or sign, any other measure or proposition pending or proposed to be introduced in the Common Council or that has already been passed by the Common Council or in consideration or upon condition that the Mayor nominate for appointment or appoint or remove any person to or from any office or position under the ordinances of this City.
 - (c) Nothing in this Subsection shall be construed as prohibiting free discussion and deliberation upon any question pending before the Common Council by members thereof, privately or publicly, nor as prohibiting agreements by members to support any single measure pending, on condition that certain changes be made in such measure, nor as prohibiting agreements to compromise conflicting provisions of different measures.
- (15) Severability. The provisions of this section are severable. If any provision of this section is held to be invalid or unconstitutional or if the application of any provision of this section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this section which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the Common Council that this section would have been adopted had any invalid or unconstitutional provisions or applications not been included herein.
- (16) Effective Date. This ordinance shall take effect upon publication except for the provision in Sec. 3.35(9)(c) relating to the timing of the filing of Statements of Interests by members of all boards, committees, commissions, sub-committees and ad hoc committees. That provision shall become effective upon publication but shall first be applicable to the affected persons at the time of her or his initial appointment, re-appointment or, for those serving at the time of publication of this ordinance, the first Tuesday in January following publication, whichever is earliest.

(Renum. by ORD-07-00048, 4-12-07); (Sec. 3.47 Am. by Ord. 12,243, Adopted 10-20-98)

3.36 BARGAINING AGREEMENTS. Notwithstanding any other provision of the Madison General Ordinances to the contrary, ordinances and resolutions implementing the results of bargaining relative to wages, hours or conditions of employment, of any year shall not become effective for members of any bargaining unit engaged in bargaining with the City of Madison until agreement has been reached with the bargaining representative for said bargaining unit.

- (1) In the absence of agreement with the bargaining unit representative, those wages, hours and conditions of employment for the bargaining unit in effect for the previous year shall continue until an agreement has been reached.
- (2) Nothing in this ordinance shall prevent the Common Council of the City of Madison from improving the wages, hours or conditions of employment of any of its employees as it sees fit