

## MADISON ETHICS CODE SIMPLIFIED

The goal of the **Simplified Code** is to describe the City of Madison Ethics Code in everyday language. It is not intended to be a substitute for the Code. **Anyone who is uncertain whether a particular action (or inaction) may be a violation of the Code, or who believes that a violation of the Code has occurred, should obtain a copy of the Code and/or seek the advice of the City Attorney's Office or the City of Madison Ethics Board.**

### WHAT IS THE MADISON ETHICS CODE?

The Code spells out ethical standards of conduct intended to foster public trust and promote confidence in the integrity of government by avoiding the appearance of self-interest, personal gain, or benefit. The Code also requires written disclosures by most City elected officials, employees and appointees regarding their private financial or personal interests in matters that may affect the City. Page 3 of the Simplified Code discusses this obligation in greater detail. The Ethics Code is found in Section 3.35 of the Madison General Ordinances (MGO).

### WHY HAVE A CODE?

The Madison Ethics Code establishes guidelines to insure that City elected officials, employees, and appointees (a) act impartially, responsibly and independently, (b) make decisions and policies through proper channels of City governmental structure, and (c) serve the public interest rather than some private interest.

The major areas of responsibility and accountability spelled out in the Code include:

- Disclosure of conflicts of interest and possible disqualification from subsequent action
- Use of office for private gain
- Disclosures of confidential or privileged information
- Receipt of gifts and favors
- Incompatible employment
- Restrictions after leaving office or appointment.

By enacting a Code of Ethics, the City recognizes that certain responsibilities accompany public office or public position. These responsibilities address the need for City officials, employees, and appointees to discharge their duties in the public interest, uphold the U.S. and State Constitutions, and carry out the laws of the nation, state, and municipality with impartiality and fairness and without regard to their private interests.

## TO WHOM DOES THE CODE APPLY?

The Code applies to all elected City officials, employees and appointed members of City boards, committee and commissions (including sub-committees and ad hoc committees). The Code often uses the word “**incumbent**” to mean individuals in any of these categories. The Code may also refer to an incumbent’s “**immediate family**.” For these and other definitions, please consult Section 3.35(2) MGO.

In certain circumstances citizens who interact with City employees and officials may also be subject to the Ethic Code’s standards of conduct. For instance, the Code prohibits the offering of gifts, or special favors as a reward or in exchange for some official action. The Code also prohibits an incumbent from accepting such gifts or rewards. This is an example how the Code offers guidance to both officials and citizens alike.

## WHAT OBLIGATIONS DOES THE CODE IMPOSE?

### I. Financial Disclosure on Statements of Interest

The Code requires *incumbents* to file annually a Statement of Interests describing their private financial or personal interests in matters that may affect the conduct of City business. Disclosure of these interests is required to assure the public of the impartiality of those who make decisions on the public’s behalf.

Who must file? The filing requirement extends to all elected officials and members of boards, committees, commissions, unless they can demonstrate to the Ethics Board that they are **not** involved in the (a) regulation of economic activity, (b) expenditure or granting of public funds, or (c) entry into City contracts.

Disclosure forms must also be completed by City employees who work on behalf of the City (a) negotiating; the sale or acquisition of property or real estate, (b) overseeing economic development projects, (c) assessing or appraising property for tax purposes, or (d) enforcing City ordinances or state laws. Since Madison police officers are covered by their own departmental policies and disclosure requirements and need to have their identity protected from public disclosure, police officers are exempt from filing a Statement of Interest.

Candidates for elective public office must also file a Statement of Interest with the City Clerk at the same time as nomination papers are filed. Failure to file a Statement of Interest may result in the City Clerk removing the candidate’s name from the ballot.

Failure to file: Failure of a City employee to file a Statement of Interest in a timely manner may result in the withholding of salary and other compensation. Failure to file may also prevent an appointee from being confirmed by the Common Council.

Amendments and changes: If a filer becomes aware of *errors* or *omissions* in the original Statement, he/she *must* file an amended version as quickly as possible.

Moreover, elected officials, City employees who head departments or divisions, and mayoral assistants *must also* report any changes on their Statement as soon as possible. Statement of Interest forms and instructions are available from the City Clerk.

## II. Standards of Conduct

The following overview of the Code's standards of conduct is not intended to be definitive. The Code should be consulted for a complete description of its obligations and prohibitions.

Use of office or position: The Code states that no *incumbent* may use his/her position or office to obtain financial gain or anything of value or any advantage, privilege, or treatment for the private benefit of the *incumbent*, his/her immediate family, or an organization with which the *incumbent* is associated. Nor may an *incumbent* take any official action in a matter, which may affect a family member or association in which he/she may have a personal or financial interest.

Disclosure and disqualification: The Code states that any *incumbent* who has a financial or personal interest in a matter coming before the Common Council or any board, committee or commission must **disclose** the nature and extent of such interest and if necessary, **disqualify** himself/herself from discussing and, voting on the matter.

Influence and reward: The Code states that no *incumbent* may solicit or accept (directly or indirectly) anything of value that could reasonably be expected to influence a vote, official action, or judgment or be considered a reward for any official action or inaction.

Privileges and advantages: The Code prohibits the use of City-owned vehicles, equipment, materials, or property for personal convenience or profit except as authorized by the Common Council or when such things are available to the public generally.

Outside employment: The Code prohibits *incumbents* from accepting outside employment and/or service (paid or unpaid) that would impair (or reasonably appear to impair) independence of judgment or action in the performance of official duties.

Disclosure of information: The Code prohibits the intentional use or disclosure of privileged information that could result in anything of value for the *incumbent*, his/her immediate family, or for any other person or entity, unless the information has already been communicated to the general public or is a public record.

Cooling off period for *incumbents*: The Code places certain restrictions on the activities of *former incumbents* for **twelve months** after leaving office, employment, or appointment. For instance, restrictions limit *former incumbents* from appearing before and/or negotiating with his/her former entity, office, board, committee or commission for a **one year** period. Such restrictions apply whether or not the former *incumbent* is paid for his/her services.

Receipt of anything of value: The Code prohibits *incumbents* from receiving or keeping any transportation, meals, beverage, entertainment, fees, honoraria, or anything of value except in accordance with the standards of conduct contained in the Code. The Code is very explicit about what may and may not be accepted by *incumbents* in the performance of their duties and in outside activities. *Incumbents* who may be affected by such regulations should review the Code.

Nepotism and equal treatment: Favoritism and special treatment in hiring and promotion based on family and special relationships shall not be allowed.

Contract or leases: The Code places limitations on City contracts or leases (involving more than \$3000 per year) with any *incumbent*, his/her immediate family, or any organization in which the *incumbent* owns or controls at least 2% of the outstanding equity. Before accepting such a contract or lease, the *incumbent* must disclose in writing to the City Clerk the nature and extent of his/her interest in said contract or lease. In turn, the City Clerk will advise the Common Council about the disclosure at the time a vote on the contract or lease is considered.

### **III. Appointment of City Employees to a non-City Board or Committee**

When a City employee is appointed **by the mayor** to a non-City board or committee, that employee is obligated to represent the interests of the City and act with independence of judgment. Careful consideration should be given prior to the appointment to assure that such individuals do not have a conflict of interest which would be incompatible with the proper discharge of their City duties and have the necessary independence of judgment in representing the City's interest.

### **IV. Political Activities**

The Madison Ethics Code prohibits any City employee, during work hours or while on official business, from

- wearing or displaying campaign material,
- distributing campaign literature,
- soliciting or receiving political contributions, or
- actively campaigning for any candidate or referendum.

### **WHAT IS THE ETHICS BOARD?**

The City of Madison appoints an Ethics Board to answer questions, render opinions, and hear complaints on matters concerning the Code. The Board has seven members: four citizen members, one representative of the Mayor, the Common Council President (or designated alderperson), and one representative of organized labor. All members of the Board are appointed by the Mayor with confirmation by the Common Council.

The Board elects its own chair and vice-chair and develops written rules of procedures which are approved by the Mayor and the Common Council. The Human Resources Director provides staff support to the Board, and the City Attorney furnishes the Board with legal assistance.

## HOW DOES THE BOARD BECOME INVOLVED IN A MATTER?

Advisory Opinions: When an *incumbent* or candidate for City elected office is uncertain about the Code's application, he/she may ask the Ethics Board for an advisory opinion and be guided by that opinion when given. The individual will have an opportunity to present the facts at issue and state why the Code may or may not apply to a particular situation at hand. When the individual follows the Board's advice, it is considered evidence of his/her intent to comply with the Code. If the applicant desires the request for advice and the Board's opinion to remain confidential, the Board will meet in closed session, and only an anonymous summary of its opinion is made public.

Complaints: Any resident of the City may complain in writing to the Ethics Board about the activity or conduct of any person covered by the Code; however, that complaint must be filed within 12 months of the time the violation is alleged to have occurred. The person making the complaint must be present at the time the complaint is brought before the Ethics Board. The Board may issue subpoenas and administer oaths during the course of the proceeding. The procedure that the Board follows is based on rules and procedures that have been established by the Board and approved by the Common Council.

Copies of the Madison Ethics Code may be obtained from the Office of the City Attorney in Madison, Wisconsin.

The Procedures Manual may be obtained from the Office of the City Attorney in Madison, Wisconsin.

## **20 Things You Need to Know About the Ethics Code**

### **1. Madison's Ethics Code is based on State Law**

Our Code is based on Sec. 19.42, Wis. Stats. Our Code is in Sec. 3.35, MGO

### **2. Who is covered by the Code?**

All elected officials, all city employees, all members of Boards and Committee

### **3. What obligations does the Code Impose?**

Financial Disclosure, Standards of Conduct, Political Activities

### **4. Outside Employment is Regulated**

May not impair or appear to impair independence in official duties

### **5. Key Definitions**

When are you (including your immediate family) "Associated" with an organization? Officer, Director, or 2% of equity

"Economic or financial interest"

Business or cause in which you or family have share which relates to your income wealth or goods or the material resources of you or your family

"Personal interest"

Any interest greater than nominal including: close business, political or other association

### **6. Failure to file can lead to employee discipline or removal for a committee member**

Removal for committee member is "automatic"

### **7. Travel and Conferences funded by a third party are regulated**

Payments must be reported to the Finance Director. Incumbent may have to pay the amounts that exceed City travel reimbursement rates.

### **8. Soliciting Donations for a City project or a Conference is regulated**

Must be authorized by Common Council, incumbent cannot be associated with it, must file a report with the City Clerk with 6 months

### **9. Support Foundations—a source of recent complaints**

Ethics complaints recently filed before Ethics Board. But State of Wisconsin v. Beaver Dam Development Corporation.

### **10. The Code requires Disclosure and Disqualification**

Every city Board or Committee agenda must have an agenda item for Disclosures and Recusals.

- 11. Post Employment restrictions**  
a/k/a the "revolving door". Generally restrictions are for 12 months
- 12. Accepting "Anything of value" is prohibited**  
That which is not generally available to all residents of the City
- 13. Political Activity**  
Wearing or displaying campaign material, distributing campaign literature, soliciting contributions, active campaigning
- 14. Nepotism**  
Fair and equal consideration must be given. May not participate in final decision for hiring a member of their immediate family
- 15. Advisory Opinions May be Sought**  
Prima Facie evidence of intent to comply, if followed
- 16. Honoraria Fees and Expenses**  
May not receive anything of value, other than commemorative or of nominal value, arising from their city roles. May accept reimbursement of actual and reasonable expenses.
- 17. What happens if the Ethics Board gets involved? Who is on the Board?**  
Any Resident may make a Complaint. Board first determines if it has jurisdiction before having a full hearing. Board consists of: Four Citizens, One representative of the Mayor, Common Council President or designee, One labor representative
- 18. Appointment of City employees to a non City Board or Committee**  
Obligated to represent the interest of the City
- 19. There is a Continuing Duty to Update Statement of Interests**
- 20. Interests in Contracts or Leases with City are regulated**  
\$3,000 within a 12 month period

**Contact the City Attorney's office for further information:**

Michael May, City Attorney  
Steve Brist, Assistant City Attorney  
(608) 266-4511

## Reccomended Actions Where a Potential Conflict of Interest Exists

	Discussion on Funding for objective	Decisions on funding for objectives	Discussion on Funding for Goal	Decisions on funding for Goal	Discussion on overall funding	Decisions on overall funding
Self or family is a current or former client of program (If separation from agency has been less than 6 months)	Disclose and Recuse				Disclose Recuse on any discussion to move money between program areas	
Self or family employed in program being reviewed						
Self or family employed in agency being reviewed						
On Board of agency being reviewed						
Former employee of an agency being reviewed (If separation from agency has been less than 6 months)						
Note: Before Committees begin to review applications, they will be given a list of all agencies that have applied and will be asked to identify any potential conflicts.						