



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 44445

File ID: 44445	File Type: Ordinance	Status: In Committee
Version: 2	Reference:	Controlling Body: COMMON COUNCIL ORGANIZATIONAL COMMITTEE
Lead Referral: ETHICS BOARD	Cost:	File Created Date : 09/13/2016
File Name: Clarifying the Ethics Code		Final Action: 02/28/2017

Title: SUBSTITUTE Amending Section 3.35(4) and creating Section 3.35(12)(d) of the Madison General Ordinances to limit the types of complaints that the Ethics Board may hear under Sec. 3.35(4) of the Ethics Code, and to require that any complaint filed against a managerial employee or a committee member be forwarded to the Mayor.

Notes: 5873ethicsSUB

Code Sections:

CC Agenda Date: 01/03/2017

Indexes:

Agenda Number: 54.

Sponsors: Paul R. Soglin

Effective Date:

Attachments: Version 2, Version 1

Enactment Number: ORD-17-00031

Author: Michael May

Hearing Date:

Entered by: dalthaus@cityofmadison.com

Published Date:

Approval History

Version	Date	Approver	Action
1	09/13/2016	Michael May	Approved as to Form
1	09/14/2016	Laura Larsen	Approve
2	10/31/2016	Michael May	Approved as to Form
2	10/31/2016	David Schmiedicke	Approve

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

- | | | | | | | |
|---|---|--|---|---|------------|------|
| 1 | Attorney's Office/Approval Group | 09/13/2016 | Referred for Introduction | | | |
| | Action Text: | This Ordinance was Referred for Introduction | | | | |
| | Notes: | Ethics Board | | | | |
| 1 | COMMON COUNCIL | 09/20/2016 | Refer | ETHICS BOARD | 11/29/2016 | Pass |
| | Action Text: | A motion was made by Verveer, seconded by Rummel, to Refer to the ETHICS BOARD. The motion passed by voice vote/other. | | | | |
| | Notes: | | | | | |
| 1 | ETHICS BOARD | 10/25/2016 | | | | |
| | Action Text: | The Board discussed the proposed amendment and a consensus was reached that the amendment went too far. The Board wants an amendment that removes jurisdiction if the only allegations are a violation of sec. 3.35(4), MGO, and there is no final adjudication or determination of a violation of law by another legal entity. If there were such a determination, the Board would have jurisdiction under sec. 3.35(4), but would not have a hearing on the underlying determinations of a legal violation. The Board would, in that instance, simply decide if the legal violation was also a violation of the Ethics Code, and make a recommendation as to what further actions should be taken. | | | | |
| | | Based upon that discussion, the City Attorney is to draft a substitute to bring back to the Ethics Board. | | | | |
| | | Joseph Baring moved to refer the ordinance to the next meeting of the Board to consider the substitute, second by James Cobb. Motion passed unanimously on a voice vote. | | | | |
| 2 | ETHICS BOARD | 11/29/2016 | RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER | | | Pass |
| | Action Text: | Alder Verveer suggested some minor clarifying changes to the Title and Drafter's Analysis, which City Attorney May accepted. A motion was made by Verveer, seconded by Baring, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by voice vote/other. | | | | |
| 2 | COMMON COUNCIL | 01/03/2017 | Refer | COMMON COUNCIL ORGANIZATIONAL COMMITTEE | 02/07/2017 | Pass |
| | Action Text: | A motion was made by Verveer, seconded by Rummel, to Refer to the COMMON COUNCIL ORGANIZATIONAL COMMITTEE. The motion passed by voice vote/other. | | | | |
| | Notes: | | | | | |
| 2 | COMMON COUNCIL ORGANIZATIONAL COMMITTEE | 02/07/2017 | Return to Lead with the Recommendation for Approval | ETHICS BOARD | | Pass |

an Ethics Board complaint. Recently, one member of the Ethics Board suggested this section be clarified. This ordinance change codifies the prior Ethics Board rulings that there must be an allegation of a violation of some section other than Sec. 3.35(4) to give the Ethics Board jurisdiction, or if jurisdiction is asserted under Sec. 3.35(4) alone, that some legal entity has found a violation of another legal duty.

Second, at the request of the Mayor, the Code is amended to be certain the Mayor is notified by receipt of a copy of any ethics complaint filed against a city managerial employee or a member of a city committee. This allows the Mayor to determine if discipline or removal from committee membership is appropriate, outside of the Ethics Code process.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (4) entitled "Responsibility of Public Office" of Section 3.35 entitled "Code of Ethics" of the Madison General Ordinances is amended to read as follows:

"(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. Any complaint alleging only a violation of this sub. (4) of the Ethics Code is not within the jurisdiction of the Ethics Board unless the complaint includes allegations demonstrating that another body (a court, administrative agency, or similar entity with authority to do so) has made a final determination that the respondent has violated a provision of law. If such a final determination is shown, the Ethics Board will not rehear the underlying facts related to the legal violation, but may determine whether such violation also violates this subsection or any other part of the Ethics Code."

2. Subdivision (d) of Subsection (12) entitled "Complaints" of Section 3.35 entitled "Code of Ethics" of the Madison General Ordinances is created to read as follows:

"(d) If a complaint is filed against a managerial employee (Comp Group 21) or a member of a City board, commission or committee, a copy of the complaint shall also be forwarded to the Mayor."