Legislation Details (With Text)

File #:	44445	**Version:**	2	**Name:**	Clarifying the Ethics Code
Type:	Ordinance			**Status:**	Passed
File created:	9/13/2016			**In control:**	COMMON COUNCIL ORGANIZATIONAL COMMITTEE (ended 4/2017)
On agenda:	1/3/2017			**Final action:**	2/28/2017
Enactment date:	3/9/2017			**Enactment #:**	ORD-17-00031

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.

Sponsors: Paul R. Soglin

Indexes:

Code sections:

Attachments: 1. Version 2, 2. Version 1

Date	Ver.	Action By	Action	Result
2/28/2017	2	COMMON COUNCIL	Adopt	Pass
2/7/2017	2	COMMON COUNCIL ORGANIZATIONAL COMMITTEE (ended 4/2017)	Return to Lead with the Recommendation for Approval	Pass
1/3/2017	2	COMMON COUNCIL	Refer	Pass
11/29/2016	2	ETHICS BOARD	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
10/25/2016	1	ETHICS BOARD		
9/20/2016	1	COMMON COUNCIL	Refer	Pass
9/13/2016	1	Attorney's Office/Approval Group	Referred for Introduction	

Fiscal Note

No appropriation required.

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.

Body

DRAFTER'S ANALYSIS: Several times within the last five years, persons have filed complaints with the Ethics Board alleging violations of Sec. 3.35(4), MGO, of the Ethics Code. This is a general section reminding persons covered by the Code to follow the law. In these instances, there was no allegation of a conflict of interest, misuse of property, personal gain or any other part of the Ethics Code's "Standards of Conduct" section. In one case, a claim was brought against Ethics Board members for a "breach of law" by allegedly ruling incorrectly on an Ethics complaint.

Until recently, the Ethics Board (and the Common Council Organizational Committee) in the case of the complaint against the Ethics Board) ruled such allegations were outside their jurisdiction, on the grounds that it

would make any legal error (say, a parking ticket) the basis for 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 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.
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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.”