

**CHAPTER 9
ETHICS CODE**

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9.01 TITLE. This ordinance may be cited as the Dane County Ethics Code.

9.02 AUTHORITY. This ordinance is enacted under the authority of section 19.59, Wis. Stats.

9.03 DEFINITIONS. (1) Except as expressly modified in this chapter, words and phrases used in this chapter have the meanings set forth in s. 19.42, Wis. Stats.:

(a) *Administrative agency* means any board, commission, committee, task force or other entity which is listed in chapter 15.

(b) *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 county, fees and expenses which are permitted and reported under s. 9.32, political contributions which are reported under chapter 11, Wis. Stats., hospitality extended for a purpose unrelated to county business by a person other than an organization, or anything having a value of less than \$13 per occurrence or \$39 in total during a calendar year.

(c) *Board* shall mean the Dane County Ethics Board created by section 15.22 of the Dane County Code of Ordinances.

(d) *Business* shall mean any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making or nonprofit-making activities.

(e) *Candidate* shall mean any person who files nomination papers or a declaration for county elective office under ss. 8.10(5), 8.15(4) or 8.20(6), Wis. Stats., or any person whose nomination for appointment to county elective office is pending.

(f) *Citizen* or *citizen member* refers to a person appointed to an administrative agency, or appointed to any position by the county executive or county board, who is neither an elected county officeholder nor a county employee.

(g) *County employee* shall refer to any person holding a full or part-time position with Dane County, other than a county official.

(h) *County official* shall mean any person holding a county elected office but shall not include a candidate for such office. Unless the context clearly requires otherwise, the term includes *citizen members* as defined in para. (f) above.

(i) *Department* shall mean any department of county government having its own budget.

(j) *Disclosure statement* means a statement of economic interests of the kind required by section 9.61(2)(b), (c), (d) or (e) of this ordinance.

(k) *Domestic partner* means a person, other than a spouse, with whom a person cohabitates and shares a common domestic life.

(L) *Elected official* shall mean any person who holds an elected position and whose salary is funded in full or in part by Dane County.

(m) *Immediate family* means:

1. An individual's spouse or domestic partner; and

2. An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.

(n) *Organization* means any legal entity other than an individual or body politic.

(o) *Respondent* means a person against whom has been filed a complaint alleging a violation of this chapter.

(p) *Substantial financial interest* means any interest required to be placed on a disclosure statement by s. 9.61(2)(b), (c), (d) or (e) of this ordinance.

[History: (k), (L), (m) and (n) renum., respectively, as (L), (n), (o) and (p), and a new (k) and (m) cr., OA 4, 2005-06, pub. 12/27/05.]

9.04 APPLICATION OF CHAPTER. This ordinance shall apply to all county officials and county employees.

[History: 9.04 am., 2018 OA-2, pub. 7/23/18.]

9.05 ADMINISTRATION. The Dane County Ethics Board ("board") shall be the administrative body with respect to the

enforcement of the provisions of this ordinance. The board shall adjudicate all complaints involving alleged violations of the Ethics Code and, upon request, shall issue opinions interpreting code provisions. The board may call upon the department of administration for staff assistance as the need arises. The corporation counsel shall provide such legal assistance as the board requires.

[History: am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.06 CERTAIN COUNTY TRANSACTIONS PROHIBITED.

(1) The county shall not have or seek to have a business or financial relationship with a county official which would potentially place the official in violation of s. 946.13, Wis. Stats., or any provision of this chapter.

(2) It shall be the duty of the department head overseeing negotiations and requests for bids or proposals or other proposed transactions to assure compliance with this section.

[9.07 - 9.09 reserved.]

9.10 STATEMENT OF POLICY. (1) The proper operation of democratic government requires that county 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 County of Dane 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 county and conflict with or are incompatible with the proper discharge of duties and required independence of judgment, and to direct disclosure by county officials and managerial employees of substantial financial interests in matters affecting the county. 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 County of Dane.

(2) The county board hereby reaffirms that each county official and employee holds his or her position as a public trust, and any intentional effort to realize personal gain

through official conduct is a violation of that trust.

(3) The various provisions of this section constitute only the preamble of the Ethics Code, establishing the board's underlying purpose in formulating the provisions that follow but do not, standing alone, constitute the basis for any substantive finding of a violation of the code.

[History: (3) cr., OA 25, 2001-02, pub. 02/28/02.]

9.11 RESPONSIBILITY OF PUBLIC OFFICE.

County officials and employees 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 county. 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. County officials and employees 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.

[9.12 -9.20 reserved.]

9.21 CONDUCT REGULATED. (1) No county official or employee shall engage in any act which is violative of s. 19.59, Wis. Stats.

(2) The definition of *immediate family* in s. 9.03(1)(m) shall be used to apply s. 19.59, Wis. Stats., to county officials or employees pursuant to this section.

[History: am., OA 4, 2005-06, pub. 12/27/05.]

[History: 9.22 cr., OA 11, 1999-2000, pub. 10/20/99; 9.22 renum. as 9.39, Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[History: 9.23 cr., OA 5, 1999-2000, pub. 08/03/99; 9.23 renum. as 9.40, Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[9.22 – 9.23 reserved.]

9.24 CONDUCT REGULATED; MILEAGE REIMBURSEMENT ELIGIBILITY. A county board supervisor is eligible for reimbursement of only that mileage actually traveled in attending those meetings for which she or he is also eligible for a meeting payment.

[9.25 reserved.]

9.26 CONDUCT REGULATED; USE OF INFORMATION GAINED IN COURSE OF OFFICIAL DUTIES.

No county official or employee 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 legal entity if the information has not been previously communicated to the public or is not a public record.

[History: am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.27 IMPERMISSIBLE USE OF PUBLIC OFFICE.

No county official or county employee shall use or attempt to use his or her public office or employment to influence or gain unlawful: benefits, advantages or privileges, personally or for others. The use of county equipment and property including, but not limited to, county owned vehicles, cameras, projectors, audio systems, copy machines, fax machines, telephones and uniforms is prohibited for use for both partisan and non-partisan political activity. Use of county property which is available and accessible to the general public is not considered a violation of this ordinance.

[History: am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.28 CONDUCT REGULATED; REPRESENTATION BY ELECTED OFFICIAL BEFORE COUNTY ENTITIES. (1)

No elected official shall appear on behalf of private interests for compensation, before any county entity nor represent private interests in any action or proceeding against the county.

(a) This subsection shall not apply:

1. In a contested case which involves a party other than the county with interests adverse to those represented by the public official or employee; or

2. At an open hearing before a body other than the county board or a committee of the county board, at which a stenographic or tape record is maintained; or

3. In a matter that involves only ministerial action by the department; or

4. To representation by an elected official acting in his or her official capacity.

(2) No elected official shall accept employment as an expert witness in any proceeding adverse to the county's interests.

(3) This section shall not be construed to prohibit an elected official from dealing directly with county employees on other than ministerial matters on behalf of private interests, for compensation provided that the official contemporaneously discloses to the affected department or agency, in writing, the fact of compensation.

(4) This section shall not be construed to limit in any fashion whatsoever an elected official's business or professional partner's or associate's right to practice or appear before a county entity, provided, however, the elected official does not participate in any vote or in the decision making process.

(5) Nothing in this section shall be construed to prohibit an elected official from representing herself or himself before any county entity, including the one of which he or she is a member.

9.29 CONDUCT REGULATED; REPRESENTATION BY CITIZEN MEMBERS AND EMPLOYEES BEFORE COUNTY ENTITIES.

(1) No citizen member of any administrative agency shall appear on behalf of private interests, with or without compensation, before the administrative agency of which she or he is a member nor represent private interests in any action or proceeding against the county which involves, is related to or arises out of the work or jurisdiction of the administrative agency of which she or he is a member nor confer or negotiate with any other county official or employee in connection with any such matter.

(2) No county employee shall appear on behalf of private interests with or without compensation before any entity for or with which the employee works nor appear on behalf of private interests with or without compensation in any action or proceeding against the county.

(a) This subsection shall not apply to matters involving employee appearances before any county entity as a representative of a collective bargaining unit, whether on behalf of the unit or a county employee represented by the unit.

(3) No citizen member or employee shall accept employment as an expert witness in any proceeding adverse to the county's interests.

(4) This section shall not be construed to prohibit a citizen member from dealing directly with staff of the agency on behalf of private interests, for compensation or otherwise, provided that if the representation is for compensation, that fact is contemporaneously

disclosed, in writing, to the affected county department or agency.

(5) This section shall not be construed to limit in any fashion whatsoever a citizen member's or employee's business or professional partner's or associate's right to practice or appear before the administrative agency.

(6) Nothing in this section shall be construed to prohibit a citizen member or employee from representing herself or himself before any county entity, including the one of which he or she is a member.

9.30 CONDUCT REGULATED; ROLE OF SUPERVISORS IN LEGISLATIVE AND ADMINISTRATIVE MATTERS. (1) Permitted conduct.

Any supervisor may, at any time, on any matter, regardless of whether the supervisor serves on a committee with oversight on the matter, move to separate, postpone, personally inspect, seek more information, voice an opinion, vote for or against, or request of another supervisor that any of the above be performed, whether in person or through any form of public information media, on any subject that lawfully may come to the full county board or any standing committee thereof. Such actions lie within the normal and responsible political review process of a county board supervisor, whether at the behest of his or her constituents or at his or her own discretion, absent a showing of violation of s. 9.21.

(2) *Prohibited voting practices.* (a) It shall be a violation of these rules for any member of the county board to give, offer or promise to give his or her vote or influence in favor of or against any resolution or ordinance amendment pending or proposed to be introduced before the county board in consideration or upon condition that any other person elected to the same county board will give or will promise or agree to give his or her vote or influence in favor of or against any other resolution or ordinance amendment pending or proposed to be introduced to such county board.

(b) It shall be a violation of these rules for any member of the county board to give, offer or promise to give his or her vote or influence for or against any resolution or ordinance amendment on condition that any other member will give his or her vote or influence in favor of any change in any other resolution or ordinance amendment pending or proposed to be introduced to the county board.

(c) It shall be a violation of these rules for any member of the county board to give, offer or promise to give his or her vote or influence in favor of or against any resolution or ordinance amendment pending or proposed to be introduced before the county board, or that has already been passed by the county board, in consideration of or on condition that the county executive approve, disapprove, veto or sign, or agree to approve, disapprove, veto or sign, any other resolution or ordinance amendment pending or proposed to be introduced to the county board or that has already been passed by the county board, or in consideration or upon condition that the county executive nominate for appointment or appoint or remove any person to or from any office or position.

(d) The provision of sub. (2) shall not apply to any single ordinance or resolution, to resolutions or ordinances that are germane to one another.

[History: 9.30 cr., OA 25, 2001-02, pub. 02/28/02; title created, OA 14, 2004-05, pub. 09/16/04; 9.30 am., Sub. 1 to OA 20, 2008-09, pub. 10/30/08; am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[9.31 reserved.]

9.32 CONDUCT REGULATED; RECEIPT OF FEES AND EXPENSES.

(1) County officials, employees, citizen members and their immediate family members shall not receive and retain anything of value unless the activity or occasion is unrelated to the use of the county's time, information, facilities, equipment, services or supplies not generally available to all residents of the county. He or she shall show by clear and convincing evidence that the receipt of the thing of value did not arise from the recipient's holding or having held her or his position and was given or paid for a purpose unrelated to legislation, policies or issues being considered by or affecting the county.

(2) Such persons may accept and retain from persons or entities other than the county the cost of reimbursement of actual and reasonable expenses related to speaking engagements whether or not the same arise from their county roles or positions.

(3) County officials, employees and citizen members may accept and retain anything of value which consists of transportation, lodging, meals, food or beverage, registration fees, honoraria, or reimbursement therefor, if the official, employee or citizen member can show by clear and convincing evidence that the same was incurred or received primarily for the

benefit of the county and not primarily for his or her private benefit or that of any other person. It is *prima facie* evidence that the acceptance of anything of value consisting of the enumerated items or services is primarily for the benefit of the county (a) when received by an official, employee or citizen member in connection with a speech or other presentation being given by the county official, employee or citizen member; (b) when received by an official, employee or citizen member attending a government-related function where the same or similar items or services are provided free of direct charge to all attendees; or (c) when received by an official, employee or citizen member in a situation where the county would have to assume the costs of the item or service if not otherwise provided. This section does not prohibit a person from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary allowable expenses.

[History: am., OA 7, 1996-97, pub. 07/09/96; am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[9.33 reserved.]

9.34 CONDUCT REGULATED; RECEIPTS FROM POLITICAL COMMITTEES.

Notwithstanding any other provision of this chapter, elected officials and candidates for elective office may receive and retain from a political committee under ch. 11, Wis. Stats., transportation, lodging, meals, food or beverages, or reimbursement therefor, or payment or reimbursement of costs permitted and reported in accordance with ch. 11, Wis. Stats.

[9.35 reserved.]

9.36 CONDUCT REGULATED; DEPOSIT AND REPORT OF CERTAIN RECEIPTS.

(1) If, in the course of his or her official duties, a county official or employee receives anything of value which she or he is not otherwise prohibited by statute from accepting, she or he shall either return the item to the payor or giver or, in the alternative, shall deposit with the county treasurer a sum of money equivalent to the fair market value of the item or service.

(2) Whenever a county official or employee receives anything of value, from which she or he is not otherwise prohibited by statute from accepting, or has any fee or expense waived or reduced by a person or entity other than the county in connection with his or her official

duties, he or she shall, within ten (10) business days of the occurrence file a report with the county clerk, on forms provided by the clerk, showing:

(a) The name, address and telephone number of the payor or giver;

(b) A summary of the activity or service provided giving rise to the receipt and a close approximation of the time spent in the activity or service;

(c) The date of the activity or service and the date of the receipt of the thing of value; and

(d) An accounting of the amounts received, waived or reduced, the purposes of the amounts, the disposition thereof, whether retained, deposited or returned and the date of the disposition.

[History: am., OA 2, 1996-97, pub. 05/24/96; am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[9.37 reserved.]

9.38 CONDUCT REGULATED; DISCLOSURE BY COUNTY OFFICIALS.

A county official or employee who has a substantial financial interest in a matter pending before the body of which he or she is a member shall disclose the nature of the interest. The disclosure shall be made on the record before the body or, if there is no formal record, in writing to the body. The official or employee shall not participate in any vote in which he or she or an immediate family member has a substantial financial interest.

[History: am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.39 CONDUCT REGULATED; EXPO CENTER OVERSIGHT COMMITTEE AND EXPO CENTER COMMISSION.

(1) The county hereby recognizes that the operation of an exposition center facility presents unique challenges to oversight and advisory bodies and that the opportunity for personal observations by oversight committee members and exposition center commissioners made during center events has significant potential value accruing to the county.

(2) Subject to the provisions of this subsection, members of the exposition center's oversight committee and the exposition center commission are authorized to have free admission to the center on those occasions when a center facility is contemporaneously hosting a paid-admission event. Such free admission shall be limited to not more than one paid event per year per member, and the committee's or commission's minutes, as

appropriate, shall reflect the name of the eligible events together with the names of members or commissioners authorized to receive admission under this subsection. No more than two members of a body may attend any one event.

[History: 9.22 cr., OA 11, 1999-2000, pub. 10/20/99; 9.22 renum. as 9.39, Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.40 CONDUCT REGULATED; EXPO CENTER EXECUTIVE DIRECTOR.

(1) The county board hereby recognizes that the operation and management of an exposition center facility requires that its executive director be on the premises for personal observations during center events and that the director's presence at events also has significant potential for marketing of the center. The county board finds that the practice in the hospitality industry is that promoters routinely offer complimentary admission tickets to the house and that these are routinely used by facility management to accompany prospective customers to the event for which the complimentary admission tickets are given. The county board further finds that the director's presence at events in such situations, whether or not accompanied by a guest or family member, has little if any personal value to the director and guest or family member.

(2) In addition to the use of complimentary tickets authorized for use by other exposition center staff, the executive director is authorized to accept and utilize not more than two (2) tickets per event in order to fulfill his or her management and marketing obligations at the center.

(3) Admission tickets accepted and used by the executive director under sub. (2) must be recorded in the manner required in s. 54.41(5) for staff use of such admission tickets.

[History: 9.23 cr., OA 5, 1999-2000, pub. 08/03/99; 9.23 renum as 9.40, Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[9.41 -9.59 reserved.]

9.60 STATEMENTS OF ECONOMIC INTEREST.

(1) The following county officials and county employees shall file a disclosure statement:

- (a) Elected officials.
- (b) Candidates for county elected office.
- (c) Department Heads.
- (d) Employees hired under an employment contract.
- (e) Members of the Board of Adjustment.

[History: 9.60 am., 2018 OA-2, pub. 7/23/18.]

9.61 FORM OF STATEMENT. (1) The disclosure statement shall be verified by the official or employee signing it and shall be made on a form developed by the board.

(2) Officials and employees required to file disclosure statements shall provide the following information, which shall be placed on the form:

(a) The identity of every organization, including nonprofit organizations having a contractual agreement with Dane County, with which the person or his or her immediate family members are associated and the nature of his or her association with the organization. No identification need be made of any organization of a social, religious or political nature which is not organized for the purpose of supporting a profit-making venture or profession.

(b) The identity of every organization in which the official, employee or his or her immediate family members own, directly or indirectly, securities having a value of \$5,000 or more and an identification of the nature of such securities. No identification need be made of a security or issuer of a security when it is issued by any organization not doing business in this county or by any government or instrumentality or agents thereof, or an authority or public corporation created and regulated by an act of such government, other than the State of Wisconsin, its instrumentalities, agencies and political subdivisions or authorities or public corporations created and regulated by an act of the legislature of this state.

(c) The name of any creditor, except a bank, savings and loan association or other commercial lending institution, to whom the official, employee, or his or her immediate family members, severally or in the aggregate, owes \$5,000 or more.

(d) The identity of each payor or organization from which the official, employee, or his or her immediate family members received \$5,000 or more of income in the taxable year preceding the year of filing.

(e) The real property located in this county in which the official, employee, or his or her immediate family member, holds any ownership interest, other than the principal residence of the official, employee, or immediate family member, and the nature of the interest held. An ownership interest in real property does not include a *pro rata* share of interests in real property if the official's, employee's or

immediate family member's share is less than 10% of the outstanding shares or is less than an equity value of \$5,000.

[History: (2)(a) - (e) am., OA 4, 2005-06, pub. 12/27/05.]

9.62 FILING DATES FOR STATEMENT. (1)

Candidates for elected office shall file a disclosure statement not more than 14 days after the deadline for filing their respective nomination papers.

(2) All other persons affected by this ordinance shall file a disclosure statement within 60 days of the date of assuming office or beginning employment.

(3) In March of even numbered years the county clerk shall cause a notice to be sent to all officials and employees having a disclosure statement on file notifying them that updated statements are to be filed.

(4) The county clerk shall notify candidates for elected office of the provisions of this chapter at the time that nomination papers are filed.

[History: 9.62 am. and renum., 2018 OA-2, pub. 7/23/18.]

9.63 PLACE OF FILING. All disclosure statements shall be filed in the office of the county clerk.

9.64 PENALTY FOR FAILURE TO TIMELY

FILE. (1) The county treasurer shall withhold the payment of salaries and expenses from any employee who fails to disclose his or her economic interests in accordance with the requirements of this ordinance. Salaries and expenses so withheld shall be paid over to the affected employee upon compliance with this ordinance.

(2) County officials or candidates who fail to timely file statements of economic interests shall forfeit not less than \$10 nor more than \$1,000 for each violation.

(3) Each calendar month or part thereof during which a required filing is not made shall constitute a separate violation.

(4) Any official or employee subject to a penalty under subsections (1) or (2) of this section shall first be given a notice by the county clerk that the required filing has not been made. Such notice shall be sent by certified mail, return receipt requested, to the incumbent's last known address and shall allow the official or employee, within the thirty (30) day period from date of receipt, an opportunity to meet the requirements of this ordinance without penalty. Within such thirty day time period the official or employee may, in lieu of

filing a statement, request a hearing before the board to determine whether a statement is required from him or her. In addition to notification, any violations of subsections (1) or (2) shall be referred to the board for action by it in accordance with this chapter.

(5) The clerk shall provide to the board a list of all persons who have not filed the statement as required. This list shall be provided no later than fifteen (15) business days after the time identified in sub. (4) herein has elapsed.

(6) The board shall schedule a meeting to determine the penalties under sub. (2) herein.

[History: (1) am. and (5) and (6) cr., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.65 FALSE INFORMATION. It shall be unlawful and a violation of this ordinance for any person to file a disclosure statement in which the person knowingly omits or misstates required information in any manner whatsoever.

[9.66 -9.69 reserved.]

9.70 COMPLAINTS. (1) All complaints regarding violations of this ordinance shall be made in writing and submitted to the county clerk who shall deliver them to the chairperson of the ethics board.

(2) The complaint shall include all of the following:

(a) the name, address, telephone number and position within the county, if applicable, of the complainant;

(b) the name, address and position within the county of the individual who is the subject named in the complaint;

(c) the specific provision(s) of the Dane County Ethics Code and/or Wisconsin Statutes section(s) alleged to have been violated; and

(d) factual details supporting the alleged ethics violations.

[History: am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.71 PROCEDURE BEFORE THE BOARD.

Upon receipt of a complaint, the board shall:

(1) Cause notice to be given to the respondent by regular mail within ten (10) business days of receipt of the complaint by the chairperson. Such a notice shall contain a specification of the charges against the respondent as well as a notice that the respondent may file a written statement of his or her position with the board. The respondent shall receive a copy of the complaint. Both complainant and respondent

shall receive a copy of the Dane County Ethics Board Policy and Procedure Manual.

(2) Schedule and hold hearings on the complaint between 15 and 30 calendar days of receipt of the complaint by the chairperson.

(3) Hear the respondent's position and the testimony of witnesses, if any. All hearings shall be conducted under oath or affirmation.

(4) The board may issue subpoenas and administer oaths. Persons requesting the board to issue a subpoena shall be responsible for all associated costs.

(5) Permit the respondent and the complainant to call such witnesses as either desires and to cross-examine the witnesses of the other. Any party may choose to be represented by counsel or other representative at their own expense.

(6) Consider the evidence presented and make findings thereon.

(7) By its chairperson or his or her designee, make rulings on motions and objections made by any party in such a manner as to assure due process protection to the parties.

(8) Conduct deliberations and issue an oral decision.

(9) Issue a written decision consisting of its findings and conclusions which shall be reviewed, codified and served upon all parties by regular mail within thirty (30) days of the oral decision.

(10) Based upon the evidence presented to it, determine whether or not to seek imposition of a forfeiture pursuant to the penalty provisions of this ordinance. If a forfeiture is deemed advisable, the board may direct the corporation counsel to start an action in the name of the county against the violator.

(11) When deciding to seek the imposition of a forfeiture the board shall, at the time of notifying the corporation counsel, serve notice by mail upon the respondent to the effect that a forfeiture will be sought against the respondent, specifying the amount and that court action may be avoided if the amount specified is paid within 30 days of the date of the notice. The notice shall also inform the complainant and the respondent of the right to a review under s. 9.716.

(12) If a person against whom the board decides to seek imposition of a forfeiture fails to pay the amount specified by the board within 30 days of the date of the notice, the corporation counsel shall initiate an action for the collection of the forfeiture in the circuit court for the County of Dane. If a review is initiated under s.

9.716, the time for payment is extended to a date 30 days after the review is completed.

[History: (8) and (9) am., OA 35, 2001-02, pub. 04/22/02; am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.715 BURDEN OF PROOF. The burden of proof in any proceeding brought under this chapter shall rest with the complainant. The burden of proof shall be a preponderance of the evidence.

[History: cr., OA 25, 2001-02, pub. 02/28/02; am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.716¹ REVIEW OF BOARD DECISION. (1) Any party appearing before the ethics board who is dissatisfied with the decision of the ethics board may request a review under this section.

(2) The review under this section is initiated by a written request to the chief judge of the fifth judicial district, or to the presiding judge of Dane County if the chief judge for the fifth judicial district is not a Dane County judge.

(a) In this section, the date of the board's written decision shall be defined as the date on which the written decision is postmarked.

(b) The review request shall be accompanied by a copy of the decision of the ethics board.

(c) The review request shall be filed with the chief judge or presiding judge within 25 days of the board's written decision. Failure to timely file the review request shall bar any review under this section.

(d) The request for review shall be served upon all parties, including the Ethics Board Chairperson, via the County Clerk's Office. Service shall be by certified mail and must be postmarked within 25 days of the board's written decision.

(3) Upon receipt of a review request under this section, the chief judge or presiding judge may appoint a reserve judge, court commissioner or attorney to review the decision of the ethics board.

(4) The reviewer appointed under sub. (3) may request position papers from the parties or any of them, may decide the matter upon the record or conduct a hearing, and issue his or her decision on the matter.

¹ O.A. 25, 2001-02 and O.A. 35, 2001-02, both created a sec. 9.715. Since the obvious intent of the board was to create both, the codifier has renumbered the latter to s. 9.716, as well as changed the references thereto in 9.71(8) and (9). A corrective ordinance amendment is pending.

(5) It is the intent of the County of Dane that the review decision made under sub. (4) is final and is not reviewable in the courts of this state.

(6) The appellant shall pay no more than \$125 per half day with a maximum of \$500 per review without regard to the number of days involved. Dane County shall be responsible for the payment of the reviewer's fees as well as any reasonable and necessary expenses relating to the review.

[History: 9.716 cr., OA 35, 2001-02, pub. 04/22/02; (2) am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[History: 9.72 rep., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

[9.72 reserved.]

9.73 ADVISORY OPINIONS. (1) Any person subject to the provisions of this chapter, either personally or on behalf of an organization or governmental body, may at any time request, in writing, an advisory opinion from the board regarding the propriety of any matter to which the person is or may become a party. Any appointing officer, with the consent of a prospective appointee, may request, in writing, an advisory opinion from the board regarding the propriety of any matter to which the prospective appointee is or may become a party. The ethics board shall review a request for an advisory opinion and may advise the person making the request in writing. The ethics board may authorize the corporation counsel to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. Except as provided in sub. (3), neither the corporation counsel nor a member or agent of the ethics board may make public the identity of an individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion. The board shall annually publish a synopsis of any advisory opinions it has issued, after first reviewing such material with the corporation counsel to ensure that all individual identifying material has been deleted.

(2) It is *prima facie* evidence of intent to comply with this section or any ordinance enacted under 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.

(3) The ethics board may make an advisory opinion public with the written consent of the individual requesting the opinion or the organization or governmental body on whose

behalf it is requested and may make public a summary of an advisory opinion issued under this section after making sufficient alterations in the summary to prevent disclosing the identities of individuals involved in the opinion. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the ethics board or corporation counsel in connection with the request for an advisory opinion.

(4) The board is expressly authorized to issue advisory opinions interpreting those provisions of chapter 19 of the Wisconsin Statutes which are expressly incorporated in this chapter.

[History: (1) and (3) am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.74 OPEN RECORDS. All records of the board shall be open to public inspection at any time except as provided in sec. 9.73.

[History: am., Sub. 2 to OA 36, 2008-09, pub. 12/03/09.]

9.75 PUBLIC INSPECTION OF RECORDS.

(1) Any candidate for county elective office who is not elected shall have his or her disclosure statement destroyed not less than 30 nor more than 45 days after the election, provided that no such statement shall be destroyed during the pendency of any recount or other challenge to the election.

(2) Any employee terminating his or her employment with the county shall have his or her disclosure statement destroyed not less than 30 nor more than 45 days after the last date of employment, providing that no such statement shall be destroyed during the pendency of any litigation between the employee and the county or between the county and any other party involving the county as an employer of the employee.

(3) Any elected or appointed official who leaves office shall have his or her disclosure statement destroyed not less than 30 nor more than 45 days after he or she leaves office.

[9.76 -9.79 reserved.]

9.80 LOBBYING REGULATED. (1) Unless otherwise expressly provided, as used in this section the term *department head* includes elected officials who serve as department heads and the term *lobby* means to take a position for or against a legislative proposal or a proposed administrative rule. *Lobbying*, as

used herein, does not include the exchange of information where no position for or against the legislative proposal or rule is taken.

(2) A department head, other than an elected department head, shall not direct a county employee to appear before state or federal legislative bodies or before state or federal administrative agencies for the purpose of advancing a position, on pending legislation or administrative rules, which has not been approved by the county board, or in the case of emergency situations, by the committee designated by the county board to act in such matters unless first discussing the proposed testimony with the chairperson of the county board.

(3) In the absence of prior county board or committee approval, as appropriate, a department head shall not represent his or her position on pending legislation or administrative rules as an official county position.

(4) Unless the position being advanced by a department head is one which has been approved by the county board, or by a committee acting for the board, a department head whose county position or office is disclosed to or known by the legislative body shall first make either a written or oral disclaimer to the legislative body.

(5) If the position is presented in writing, the disclaimer shall also be in writing and shall appear boxed on the first page of the document. If a verbal position is taken, the disclaimer must precede the discussion.

(6) The disclaimer shall be substantially in the following form: "This position is not the official position of the County of Dane. It is the personal position of the speaker [or author, as appropriate]."

(7) The regulations established herein with respect to appearances before legislative and administrative bodies apply with equal force to personal contacts of any kind with individual members of such bodies when the purpose or one purpose of such contact is to present a position on pending legislation or administrative rules.

9.81 MESSAGES IN TAX BILLS. (1) No county official shall insert or cause to be inserted in any tax bill intended to be sent to any county taxpayer any message or information whatsoever other than:

(a) information mandated by the Wisconsin Department of Revenue;

- (b) information which is required under state law;
 - (c) a chart indicating the average distribution of taxes among jurisdictions in the county and a listing prepared by the controller of major county department expenditures and revenues in the county budget; and
 - (d) other information approved by the county board.
- (2) In no event shall any such message identify by name any county official or employee.

[9.82 -9.89 reserved.]

9.90 SANCTIONS. (1) Violation of any provision of this code should raise conscientious questions for the official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the County of Dane. If the ethics board determines that an official or employee has violated any provision of this code, the board may, as part of its report to the county board, make any of the following recommendations:

- (a) In the case of an official who is an elected county board supervisor, that the county board consider sanctioning, censuring or expelling the person;
- (b) In the case of a citizen member, that the county executive or other appointing authority consider removing the person from the administrative agency;

(c) In the case of an employee, that the employee's appointing authority consider imposing discipline, up to and including discharge of the employee.

(2) In addition to the sanctions available under sub. (1), any official or employee violating the provisions of this section shall be subject to a non-reimbursable forfeiture of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000).

9.91 SEVERABILITY. The provisions of this chapter are severable. If any provision of this chapter is held to be invalid or unconstitutional or if the application of any provision of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the county board that this chapter would have been adopted had any invalid or unconstitutional provisions or applications not been included herein.

[9.92 -9.99 reserved.]

END OF CHAPTER

[History: ch. 9 rep. and recr., sub. 1 to OA 12, 1994-95, pub. 03/29/96, eff. 05/28/96.]