

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED _____
REFERRED _____

Amending Sections 2.205, 3.13(5)(b), 3.17(15), 3.39(5), 4.01(4), 4.01(5)(e) & (f), 4.02, 4.03, 4.25(9)(b), 33.01(3)(c), 33.01(10)(a), 33.10(2)(a) and 39.05(16) of the Madison General Ordinances to rename the Board of Estimates the Finance Committee and to replace the Mayor with the Common Council President as chair thereof.

DRAFT

Drafted by: Michael May

Date: April 11, 2016

SPONSOR: Alders Ahrens and Clear

DRAFTER'S ANALYSIS: This ordinance changes the name and composition of the Board of Estimates. The Board is renamed the "Finance Committee." The Mayor is removed from the Board, which will now consist of 6 alderpersons. The President of the Council will chair the Finance Committee.

This ordinance must be considered with other companion ordinances proposing structural changes, such as the proposal (Legistar No. _____) to transfer the power of appointment of alderpersons from the Mayor to the Common Council President. Thus, this ordinance deals only with the name change and does not address the appointment authority, which is dealt in the companion ordinance.

This ordinance shall be effective September 1, 2016.

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

1. Section 2.205 entitled "President and President Pro Tem" of the Madison General Ordinances is amended to read as follows:

"2.205 PRESIDENT AND PRESIDENT PRO TEM.

The Common Council shall at its organizational meeting on the third Tuesday of April of each year, elect one member of the Council to act as President of the Council and another member to act as President Pro Tem of the Common Council, pursuant to the provision of Wis. Stat. § 62.09(8)(e). The President Pro Tem of the Common Council shall act during the absence, inability or disability of the president. Among other duties of the Council President and the President Pro Tem, are those set forth in Secs. 2.04 (Order of Business), 3.35(10)(b) (Ethics Board), 4.02(4) (~~Board of Estimates~~ Finance Committee), and 33.13 (Common Council Organizational Committee), MGO.

The Common Council President may, with the consent of the Common Council Organizational Committee, appoint ad hoc subcommittees of the Common Council, to consist of 2-3 Council members, to address issues of a temporary nature. The subcommittees shall be subject to the rules for all ad hoc bodies set out in Sec. 33.01, MGO."

Approved as to form:

2. Subdivision (b) entitled "Mayor and Common Council Control" of Subsection (5) entitled "Employee and Labor Relations Unit" of Section 3.13 entitled "Human Resources Department" of the Madison General Ordinances is amended to read as follows:

"(b) Mayor and Common Council Control. The ~~Board of Estimates Finance Committee~~ shall confer with the Mayor and the Human Resources Director, or designee, regarding initial bargaining proposals to be presented to each duly recognized bargaining unit. All labor contracts and agreements negotiated under the terms of this section shall be subject to the approval of the Mayor and Common Council. No labor contract or agreement shall be binding upon the City nor shall any of the terms of such agreements be implemented until such time as the agreement is approved and executed by the Mayor and City Clerk in the manner prescribed by law.

1. The Human Resources Director, or designee, shall report periodically on labor relations activities to the Mayor and the ~~Board of Estimates Finance Committee~~.
2. The Human Resources Director, or designee, shall complete such reports as the Mayor and Common Council shall require and attend such conferences or meetings as designated for purposes of ensuring sufficient communications with the Mayor, ~~Board of Estimates Finance Committee~~ and Common Council on labor relations matters."

3. Subsection (15) entitled "Annual Budget" of Section 3.17 entitled "Community Development Authority" of the Madison General Ordinances is amended to read as follows:

"(15) Annual Budget. An annual budget shall be established by the CDA, which budget shall be subject to approval of the ~~Board of Estimates Finance Committee~~ and the Common Council."

4. Subsection (5) of Section 3.39 entitled "Overtime Control" of the Madison General Ordinances is amended to read as follows:

"(5) Department or division heads shall not make any overtime assignment exceeding the budget of their department or division. The Human Resources Director shall submit a Quarterly Overtime Report through the Finance Director who shall present it to the Mayor and the ~~Board of Estimates Finance Committee~~."

5. Subsection (4) entitled "Accountability" of Section 4.01 entitled "Finance Director" of the Madison General Ordinances is amended to read as follows:

"(4) Accountability. The Finance Director shall report to the ~~Board of Estimates Finance Committee~~ and the Common Council on the financial status and policies of the City and to the Mayor on day-to-day operations and administrative matters."

6. Subdivisions (e) and (f) of Subsection (5) entitled "Duties of the Finance Director" of Section 4.01 entitled "Finance Director" of the Madison General Ordinances are amended to read as follows:

"(e) The Finance Director shall direct all accounting, statistical, auditing, and other activities relating to the management of the City's fiscal affairs; shall contribute to City of Madison fiscal planning and control goals by providing financial statements, analytical reports, cost studies, performance standards, budgetary controls, and related management information to ascertain, help maintain, and continually improve the City's financial position; and shall meet monthly with the ~~Board of Estimates Finance Committee~~ to report on and discuss the financial affairs of the City.

(f) The Finance Director shall develop and recommend a budget program that includes both long-range capital budgeting and the annual operating and capital budgets under the direction of the Mayor, ~~Board of Estimates Finance Committee~~, and Common Council."

7. Section 4.02 entitled "Budget System" of the Madison General Ordinances is amended to read as follows:

"(1) Sections 65.02, 65.03, and 65.04 of the Wisconsin Statutes Adopted. The provisions of Wis. Stat. §§ 65.02, 65.03 and 65.04 except subsection (8) of Section 65.04 and subsection (1) of Section 65.03 relating to the budget system are hereby adopted for the City of Madison and shall be in full force and effect as ordinances of said City as if fully set forth herein, except that the Board of Estimates shall be

replaced by a committee of the Common Council called the Finance Committee, and shall consist of the Mayor Common Council President and six alders, to be selected as set forth in Section 4.02(4) of this ordinance, and except that the ~~Board of Estimates~~ Finance Committee shall make and submit the proposed budget to the Common Council on or before November 15 of each year. The ~~Mayor shall be the chair of the Board of Estimates~~ Finance Committee shall elect its chair, to serve for two (2) years."

- (2) Procedure. It shall be the duty of each department to file annually with the Finance Director, on the date he or she shall specify and on forms provided by the Finance Director, an estimate in detail of the departmental needs for the ensuing fiscal year, including a statement of any permanent improvement to be made and an estimate of expenditures therefor, and including such information as the Finance Director may direct. The Finance Director shall review each departmental estimate and submit it and his or her recommendations thereon to the Mayor. Upon receipt of the departmental estimates with the recommendations of the Finance Director, the Mayor shall review said estimates and recommendations and submit a proposed budget to the ~~Board of Estimates~~ Finance Committee for its consideration.
- (3) Audit.
- (a) The ~~Board of Estimates~~ Finance Committee shall provide a major audit program to the Common Council by the second meeting of the Common Council in February of each calendar year. The Common Council may direct additional audits of any organizational unit of City government to determine whether financial transactions have been made in a legal and proper way, to review program and performance accomplishments of the organizational unit or to determine whether the organizational unit carried out policies directed or approved by the Common Council. The Common Council shall designate which audits, if any, of any organizational unit are to be undertaken each year by the Internal Audit Section of the Finance Director's office. Each organizational unit shall be audited on a random basis subject to budgetary constraints. The following audits are exempt from the requirement of prior Common Council approval:
1. Financial audits performed with a pledge of confidentiality on a random basis.
 2. Auditor investigations of defalcations, impropriety that may lead to discipline or criminal charges.
 3. Audits that in the opinion of the Finance Director would be jeopardized by general prior knowledge of the audit.
- (b) The Finance Director or her/his designee and the staff of the Internal Audit Section shall have full access to any books, records, notes, memoranda or other documents maintained by any organizational unit relating to its expenditures, revenues, structure, operations, instructions to employees, and any rule, policy or regulation relating to its operation whether oral or written and to all of the employees, appointees, volunteers, subcontractors, subgrantees and any person directly associated with the conduct or operation of the organization unit during regular business hours or at other times as may be mutually agreed. The organizational unit's business-related documents of any kind may be reviewed during business hours with or without advance notice to the head of the organizational unit. Failure of any of the above-listed persons associated with the organizational unit to cooperate fully with audit personnel or members of the ~~Board of Estimates~~ Finance Committee shall be ground for discipline or removal from office or service or service in the organizational unit, withdrawal of funding, termination of contract or other appropriate penalty.
- (c) The Finance Director shall control and be responsible for the methodology and conduct of the audit. The Finance Director may initiate other audits of organizational units in which the City has a direct or indirect pecuniary interest as the Finance Director may deem necessary to protect the City's interests. The Internal Audit Section shall prepare a draft report of the results of the audit for review by the ~~Board of Estimates~~ Finance Committee and the audited organizational unit which review shall be limited to the correction of factual errors. The organizational unit may file a response to the report which response shall be a part of the final audit report. The Finance Director shall prepare resolutions for presentation to the Common Council accepting the final audit report and directing the implementation of the recommendations made by the Internal Audit Section.
- (d) The Deputy Finance Director or her/his designee shall also provide staff services to the ~~Board of Estimates~~ Finance Committee to an extent not inconsistent with duties assigned the Finance Director under Paragraph 3. hereof.

- (e) The ~~Board of Estimates~~ Finance Committee shall monitor the chronological progress of the audits directed by the Common Council, ensure the cooperation of the involved organizational unit in the conduct of the audit, review the draft audit report with the Internal Audit Section and involved organizational unit to ensure that the report is factually correct, establish with the involved organizational unit a timetable for compliance with and implementation of the recommendations for corrections of identified problem areas or improvement of operations in the unit as approved by the Common Council, monitor the activity of the unit for continued compliance and implementation and report the same or failure thereof to the unit's appointing authority. The Committee may review the audit conclusions with the Internal Audit Section but shall not change nor direct the changing of any such conclusions. The Committee may review the recommendations of the Internal Audit Section for correction of identified problem areas or improvement of operation in the organizational unit and may submit a separate section of its recommendations to the Common Council, in the event of disagreement with those of the Internal Audit Section, in its final report of the results of the audit made to the Common Council. The Committee shall be supplied with all final audit reports conducted pursuant to this section.
- (f) For purposes of this section, and unless the context requires otherwise, "Organizational Unit" shall mean any department, division, unit or subentity or agency thereof of City government, including but not limited to each board, commission, committee, ad hoc committee, examining board, public or quasi-public entity organized or authorized by the Common Council or which is funded in whole or in part by action of the Common Council, including the subgrantees or subcontractors thereof, the custodian or entity authorized to expend funds provided by the Common Council, all external facilities operations in which the City has a direct or indirect pecuniary interest.
- (4) Selection of Alderpersons Members of Board. The ~~Board of Estimates~~ Finance Committee shall consist of six (6) Alders, five (5) of whom shall be appointed by the Mayor, subject to confirmation by the Common Council. Once confirmed these members shall hold office for a term of two (2) years or until their successors are confirmed. The sixth member shall be the Common Council President serving ex officio but with power to vote.
- (5) Intradepartmental Transfers. The expenditures within the departments for each of the various departmental activities and the objects for which such expenditures shall be made shall not exceed the amount or the sum specified or determined in such annual operating budget; provided that the Finance Director is hereby authorized to approve intradepartmental transfer of any unencumbered balance. If such a transfer is between divisions of a department it must be approved by the Mayor as well.
- (6) Capital Budget and Capital Improvement Program.
 - (a) Capital Improvement Review Process. The Mayor or her/his designee shall consult with those members of staff the Mayor deems necessary, including the Finance Director, the Director of Public Works and the Director of Planning and Community and Economic Development and the Mayor or her/his designee shall annually review each departmental capital improvement estimate.
 - (b) It shall be the duty of each department to file annually with the Finance Director by the date he/she shall specify and on forms provided by the Finance Director an estimate of its necessary capital improvements for the following six fiscal years and estimates of the costs thereof which the Finance Director shall present to the Mayor or her/his designee.
 - (c) Capital Budget. Upon receipt of the departmental estimates of capital improvement, the Mayor shall review said capital improvement estimates and submit a proposed Capital Budget for the ensuing fiscal year to the ~~Board of Estimates~~ Finance Committee for their consideration. The ~~Board~~Committee shall consider these items and make a proposed Capital Budget.
 1. The Capital Budget shall be a part of the Budget and shall be summarized in the Budget Summary and the same statutory and ordinance requirements as to publications, notice and hearing shall apply to the Capital Budget as are required for the general annual budget.
 2. The Capital Budget shall be considered part of the Capital Improvement Program, and adoption of the Capital Budget will constitute an appropriation of the items therein stated except those requiring the borrowing of money. The Capital Improvement Program adopted in previous years shall not be binding.

3. The Capital Budget shall contain proposed expenditures for land purchases and improvements in excess of three thousand dollars (\$3,000); all projects requiring the borrowing of money including, but not limited to construction or reconstruction of public utilities, streets, sidewalks, storm and sanitary drainage facilities; new construction and construction of buildings in excess of five thousand dollars (\$5,000); major alterations to buildings and facilities which are not routine repairs and which substantially enhance the value of a structure or change its use; the original equipment or motor vehicle purchases exceeding twenty thousand dollars (\$20,000) in cost and having a life expectancy of ten (10) years or more; such other capital outlays as the Mayor and Common Council shall designate.
- (d) Capital Improvement Program. It is the intent of this section that the Common Council shall, each year, adopt a statement of proposed expenditures for capital improvements for the following six fiscal years. This statement shall be adopted by resolution and be known as the Capital Improvement Program.
1. Upon receipt of the departmental estimates for the five years following the ensuing budget year, the Mayor shall review said capital improvement estimates and recommendations and submit a proposed Capital Improvement Program to the ~~Board of Estimates~~ Finance Committee for their consideration.
 2. The ~~Board of Estimates~~ Finance Committee shall review all information regarding expenditures and anticipated revenue, and shall submit to the Common Council, with the budget, a proposed Capital Improvement Program.
- (e) Referendum Procedure for Capital Projects.
1. Legislative Purpose. The legislative purpose of this ordinance is to provide to the people a means through referendum by which they may express their views and support of or opposition to major capital projects proposed to be undertaken by the City. The opportunity to directly influence the policy of the City through binding referendum with respect to the undertaking of major capital projects is found to be in the best interests of the City and its people.
 2. The following terms whenever used or referred to in this subsection shall for the purposes of this subsection be construed as follows:
 - a. Project shall mean and is to be identified as any line item designated by a separate fund number in the Capital Budget.
 - b. Estimated budget cost shall mean and is to be determined by the total funds to be expended on the project including future expenditures set forth in the seven-year projection for that project as it appears in the Capital Improvement Program.
 - c. Referendum shall mean election proceedings pursuant to the Statutes which govern special elections in general, and consistent with elections held pursuant to Wis. Stat. § 67.05(5).
 - d. Petition shall mean a petition the preparation and form of which is consistent with the provisions of Wis. Stat. § 8.15.
 3. Petition for Referendum. The Capital Budget and the individual projects therein shall be deemed approved upon its adoption by the Common Council unless within thirty (30) days of the recording of the adopted budget with the City Clerk there shall be filed in the office of the City Clerk a petition requesting the submission of the question of the approval of an individual project, the estimated budgeted cost of which exceeds 1.5 million dollars (\$1,500,000), to the electors. The petition shall be signed by electors numbering at least ten percent (10%) of the vote cast for governor in the City at the last general election, shall identify the project by the fund number and shall refer to only one project. If such petition is filed a binding referendum shall be held at the spring primary election on the question of the approval of the project; if there is no spring primary the referendum shall be held at the general spring election or at any special election called by the Common Council for this purpose.
 4. Amendment to the Capital Budget. An amendment to the Capital Budget during the fiscal year which creates a new project meeting the requirements of this ordinance will be subject to the petition and referendum process if within thirty (30) days after the recording of the amendment in the office of

the City Clerk a petition is filed which meets the requirements set forth above. If such petition is filed a referendum election will be held at the next succeeding election provided that such election takes place not less than six (6) weeks from the date of the filing of the petition with the City Clerk. The Council may call a special election for the purpose of conducting the referendum.

5. Limited Right to Referendum. The right to a referendum on a project is limited to the first year that funds are to be expended on that project. The failure to petition for a referendum in that year precludes a referendum in subsequent years even though the project appears and funds are to be expended pursuant to subsequent years Capital Budgets. Any modification, addition, amendment or alteration to a project or increase in cost of a project does not give rise to the right to a referendum hereunder even though said modification, addition, amendment or alteration or increase in cost results in an estimated budgeted cost in excess of 1.5 million dollars (\$1,500,000). Only one referendum will be held for any eligible project hereunder and neither a change nor its appearance in subsequent years Capital Budgets shall give rise to the right to a second referendum on any eligible project.
6. Rejected Project. The results of any referendum shall be binding with respect to that project for the fiscal year in which the referendum election is held. A rejected project may be renewed in any future Capital Budget where it will if eligible hereunder be subject to the petition and referendum process as a new project.
7. Ordinance not Applicable to Following Projects. This ordinance and the right to petition for a referendum on any capital project hereunder shall not be applicable to the following programs and/or projects found in the budget:
 - a. Street maintenance program.
 - b. Assessable streets.
 - c. Sidewalks program.
 - d. Street reconstruction.
 - e. Sanitary sewers.
 - f. Storm sewers.
 - g. Assessable tree program.
 - h. Neighborhood parks.
 - i. Street lighting.
 - j. Heavy equipment.
8. Report on Issues Related to a Referendum Question. At least two (2) weeks prior to the day of a referendum election, the Finance Director shall produce an objective report on the issues related to the referendum question. Such report shall include arguments both for and against the project submitted to referendum election and be made available to all registered voters.
9. Severability. In the event that any section of this ordinance shall be declared or judged by a court of competent jurisdiction to be invalid or unconstitutional such adjudication shall in no manner affect the other sections of this ordinance which shall be in full force and effect as if the said section or said sections were not originally a part thereof.
10. Effective Date. This subdivision and the right to a referendum hereunder shall take effect with and be applicable to the 1980 Capital Budget and the projects therein.”

8. Section 4.03 entitled “Contingent Fund” of the Madison General Ordinances is amended to read as follows:

“4.03 CONTINGENT FUND. The ~~Board of Estimates~~ Finance Committee and the Common Council shall annually provide for a contingent fund of not less than one hundred thousand dollars (\$100,000). No appropriation shall be made from said fund except upon an affirmative vote of three-fourths (3/4) of all the members of the Common Council.”

9. Subdivision (b) entitled “Composition and Appointment of Members” of Subsection (9) entitled “Committee on Sweatfree Purchases” of Section 4.25 entitled “Procurement of Items of Apparel” of the Madison General Ordinances is amended to read as follows:

“(b) Composition and Appointment of Members. The Ad Hoc Task Force on Sweatfree Purchases shall consist of five (5) voting members and one (1) alternate member. Membership shall include one (1) alderperson who serves concurrently as an appointed member of the Board of Estimates Finance Committee. The remaining four (4) members and one alternate shall be residents of the City of Madison of legal voting age. At least one (1) of the remaining four members shall be a student representative on the University of Wisconsin-Madison's Labor Licensing Committee. Appointments shall be made by the Mayor, subject to the approval of the Common Council.”

10. Subdivision (c) of Subsection (3) entitled “Definitions” of Section 33.01 entitled “Boards, Commission, and Committees Procedures” of the Madison General Ordinances is amended to read as follows:

“(c) “Board or Commission” means a Sub-unit of the City, ~~except for the Board of Estimates~~ that is given some independent power to make determinations on behalf of the City of Madison.

11. Subdivision (a) entitled “Budget Meetings: of Subsection (10) entitled “Meetings Not to be Held” of Section 33.01 entitled “Boards, Commission, and Committees Procedures” of the Madison General Ordinances is amended to read as follows:

“(a) Budget Meetings. Sub-units shall not schedule meetings on the same nights that the ~~Board of Estimates Finance Committee~~ or the Common Council is considering the annual Operating and Capital budgets.”

12. Subdivision (a) of Subsection (2) entitled “Membership” of Section 33.10 entitled “Committee on Employee Relations” of the Madison General Ordinances is amended to read as follows:

“(a) The Committee shall be composed of nine (9) members. Three (3) members shall be members holding management positions with the City of Madison. Three (3) members shall be citizen members nominated by the employees. Two members (2) shall be alderpersons currently serving on the ~~Board of Estimates Finance Committee~~. One member (1) shall be the Human Resources Director who will only vote to break a tie vote among the other members. All members, with the exception of the Human Resources Director, shall be appointed by the Mayor subject to the approval of the Common Council on the third Tuesday of April for a term commencing on that date. The terms of the alderpersons expire with the expiration of their term as an alderperson. The remaining six (6) members shall serve staggered terms of three (3) years, with the terms of two (2) members expiring annually.”

13. Subsection (16) entitled “Enforcement Procedure for City Facilities” of Section 39.05 entitled “Nondiscrimination Based on Disability in City Facilities and City-Assisted Programs and Activities” of the Madison General Ordinances is amended to read as follows:

“(16) Enforcement Procedure for City Facilities. If a Department head, after receiving a written determination that a City facility for which she/he is responsible is not in compliance with this ordinance, fails to meet the deadline for compliance and remedy, fails to enter into a voluntary compliance agreement, or fails to comply with such an agreement, the Director of the Department of Civil Rights or her/his designee shall notify the Disability Rights Commission, and the Mayor. The Disability Rights Commission shall submit to the ~~Board of Estimates Finance Committee~~ a written report on the noncompliance, and such report shall contain a recommendation for action. The Mayor shall convene a special meeting of the ~~Board of Estimates Finance Committee~~ to consider the issue, and shall publish a notice at least twenty-one (21) days prior to the meeting. At the meeting, the ~~Board Finance Committee~~ shall hear the Department head, other City officials and employees, and members of the public. The meeting may be adjourned and reconvened as the ~~Board Finance Committee~~ may deem appropriate.

The meeting shall be considered legislative and not quasi-judicial and shall be conducted in open session. The ~~Board of Estimates Finance Committee~~ shall recommend a resolution of the issue to the Common Council for its approval.”

14. This ordinance shall be effective September 1, 2016.