



Legislation Details (With Text)

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**Title:** Amending Chapter 2 of the Madison General ordinances to clarify and modify a number of the Standing Rules of the Common Council.

**Sponsors:** Michael E. Verveer, Tim Bruer, Brenda K. Konkell, Satya V. Rhodes-Conway, Robbie Webber, Judy Compton, Michael Schumacher, Joseph R. Clausius

**Indexes:**

**Code sections:**

**Attachments:** 1. Issues of procedure.pdf, 2. Withdrawal of motions.pdf, 3. Motion to Adjourn.pdf, 4. Mayor Addressing Council.pdf, 5. Reconsideration-motion.pdf, 6. Reconsideration-Changing Vote.pdf, 7. Ordinances&Resolutions-Substitute/Alternate.pdf

Date	Ver.	Action By	Action	Result
12/4/2007	1	COMMON COUNCIL	Adopt	Pass
11/20/2007	1	COMMON COUNCIL	Refer to a future Meeting to Adopt	
11/12/2007	1	Attorney's Office	Referred for Introduction	

**Fiscal Note**

No appropriation required.

**Title**

Amending Chapter 2 of the Madison General ordinances to clarify and modify a number of the Standing Rules of the Common Council.

**Body**

DRAFTER'S ANALYSIS: This ordinance is a revision of Chapter 2 of the Madison General Ordinances, the standing rules for the operation of the Common Council. The revision has been reviewed by a subcommittee of the Common Council Organizational Committee (CCOC), and the CCOC itself. It is being sponsored by the CCOC.

Some of the changes are minor. Other changes make substantive, and in some cases significant, changes in the procedure before the Council. And yet other changes merely codify what is current practice. In order to assist the Council in considering these matters, I have included a small drafter's analysis after each section of the amended Chapter 2. These provisions will not appear in the Madison General Ordinances when the revisions are made.

In addition, at the request of the CCOC, a number of the City Attorney's "Point of Order" memos and the memo on substitutes and alternates have been included as attachments to this ordinance.

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

Chapter 2 entitled "Standing Rules For The Government of the Common Council" of the Madison General Ordinances is amended to read as follows:

**"2.01 MEETINGS.**

- (1) The stated meeting of the Common Council shall be held in the Council Chambers on the first and third Tuesdays of every month at 6:30 p.m., except in August and December the Common Council will meet only on the first Tuesday; ~~provided, however, that a meeting shall be scheduled for November 14, 2006 for the purpose of adopting the 2007 Capital and Operating~~

Budgets that additional meetings to consider the 2007 Capital and Operating Budgets shall be scheduled for November 15 and 16, 2006, if necessary, each starting at 7:00 p.m.; that the regularly scheduled meeting of February 20, 2007 shall be rescheduled to February 27, 2007; that the regularly scheduled meeting of April 3, 2007 shall be rescheduled to March 27, 2007; and that a meeting shall be scheduled for April 17, 2007 at 12:00 noon for the purpose of swearing in newly elected Council members. A special November meeting or meetings will be held for the Capital and Operating Budgets. Following a regular City of Madison election, the newly elected Common Council also shall hold an organizational meeting on the third Tuesday of April. The Council will establish the meeting dates for all meetings by resolution and post the schedule at least annually, and may modify meeting dates for holidays and elections.

- (2) (R. by Ord. 6539, 3-8-79)
- (3) The Common Council of the City of Madison shall meet no later than the first Council meeting in December to act upon the adoption of the City Budget.
- (4) The Common Council shall not meet on the following holidays: New Year's Eve, New Year's Day, Memorial Day, Independence Day, Labor Day, Martin Luther King, Jr. Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Eve, Christmas Day, Rosh Hashanah, Yom Kippur, the first two nights of Passover, and any general or primary election day at which local City of Madison city offices or positions are decided.
- (5) Special meetings shall be called by the Mayor by written notice to each member, delivered to the member personally or left at their usual abode, at least six (6) hours before the meeting. (Editor's Note: Only lawful method, See Wis. Stat. § 62.11(2).)
- (6) Adjournment. The motion to adjourn shall be made by any member. All agenda items not dealt with before approval of the motion to adjourn regular meetings shall be automatically referred to the next regular meeting of the Common Council.
- (7) Informational Informal Meetings. The Council may hold meetings other than those established under Section 2.01(1) or (5). At such informal meetings no legislative business may be transacted. At meetings other than those established under Section 2.01(1) or (5), the Council may receive informational briefings from staff, make site visits, receive public comments, or conduct informal discussion, without the presence of a quorum, as long as it complies at all times with the open meeting ordinance and statutes.
- (8) Reserved For Future Use.
- (9) Reserved For Future Use."

[Drafter's Analysis to Sec. 2.01:

1. Sec. 2.01(1) is modified to generally state the meeting dates and provide that the Council shall, by resolution, establish and publish the actual dates at least annually.
2. Sec. 2.01(4) is amended to include all current holidays and those religious holidays on which the Council traditionally has not met.
3. Former Sec. 2.015 regarding informational meetings has been modified and included as Sec. 2.01(7).]

~~"**2.015 OTHER MEETINGS.** The Council may hold meetings other than those established under Section 2.01. At such other meetings no legislative business may be transacted. At meetings other than those established under Section 2.01 the Council may receive informational briefings from staff, or make site visits, without the presence of a quorum, as long as it complies at all times with the open meeting ordinance and statutes."~~

[Drafter's Analysis to Sec. 2.015: This section is repealed; its substance has been incorporated into Section 2.01(7).]

**"2.02 CALL TO ORDER.** The presiding officer shall at the hour appointed call the members to order. In the absence of the presiding officer, any member may call the Council to order, and thereupon the Council shall appoint one of its members to preside at such meeting."

[Drafter's Analysis to Sec. 2.02: No change.]

**"2.025 NOTIFICATION OF ABSENCE OF MEMBERS.** Every alderperson who for whatever reason cannot

attend a regularly scheduled meeting of the Common Council shall ~~file with the City Clerk a notification~~ notify Common Council Office staff of such absence by 9:00 a.m. the Thursday prior to the meeting in question; ~~Common Council Office staff shall then notify the City Clerk of the absence.~~ All such excused absences shall be entered in the record of the Common Council. In cases where unavoidable circumstances make such advance notice of absence impossible, the notification of excused absence shall be filed with the City Clerk within one week of the absence and entered in the record of the Common Council. Any alderperson who because of an emergency cannot file prior notification of absence may be excused by orally notifying, at any time prior to or during the meeting, an alderperson or the City Clerk who shall so advise the Common Council. Any alderperson who will be absent from the City for five (5) or more consecutive days shall notify the Common Council Office staff ~~and the Common Council President~~ of the length of their absence.”

[Drafter’s Analysis to Sec. 2.025: This section was modified to provide that notification of absence should be made to the Common Council office staff.]

**“2.03 PROCEDURE TO FILL VACANCIES ON THE COMMON COUNCIL.**

- (1) The Common Council President shall oversee the application process to fill aldermanic vacancies.
- (2) Applications to fill any aldermanic vacancy shall include information on:
  - (a) Name,
  - (b) Address,
  - (c) Home telephone number,
  - (d) Work telephone number,
  - (e) E-mail address,
  - (f) Biographical resume including education, work, neighborhood, and civic experience,
  - (g) A statement on why the applicant wishes to serve.
  - (h) A statement of what the applicant wants to accomplish,
  - (i) If the applicant plans to run for office during the next special or regular election, and,
  - (j) Such other information as the Common Council President in consultation with the Common Council Organizational Committee may request.
- (3) The Common Council Organizational Committee shall review the applications and, following opportunities for personal candidate interviews, shall recommend to the Common Council a candidate selected for confirmation to fill the vacancy. If the Common Council Organizational Committee is unable to agree on a candidate to recommend, it may recommend more than one candidate, or it may reopen the application process to seek additional applicants.
- (4) The Common Council shall appoint and confirm the recommended candidate, or appoint and confirm another candidate from among the applicants.
- (5) The appointed and confirmed candidate shall serve until an alderperson is elected pursuant to Wis. Stat. § 17.23(1) and is qualified.”

[Drafter’s Analysis to Sec. 2.03: No change.]

**“2.04 ORDER OF BUSINESS.** At all stated meetings, the following order shall be observed in disposing of business before the Council:

- (1) ~~Opening remarks, presentation of petitions, memorials, remonstrances, communications, notices and absences.~~
- (2) ~~Approval or modification of prior Common Council proceedings.~~ Suspension of rules.
- (3) ~~Public hearings to be considered as special orders at 6:45 p.m.~~ Honoring resolutions.
- (4) Early Public Comment. This subsection (4) shall not apply after October 1, 2008.
- (5) ~~Presentation of Consent Agenda.~~ Petitions and communications.
- (6) ~~Informational hearings to be considered as special orders immediately following public hearings.~~ Modification of prior Common Council proceedings (upon request of a Common Council member).
- (7) ~~Business presented by the Mayor.~~ Presentation of consent agenda as special order at 6:45 p.m.

- (8) ~~Business presented by the President of the Common Council. Public hearings as special order at 6:45 p.m.~~
- (9) ~~Reports of departments and divisions, committees, boards and commissions are in continuous rotation, alphabetically. Informational hearings as special order immediately following public hearings.~~
- (10) ~~Ordinances and resolutions previously introduced. Business presented by the Mayor, including appointments and confirmations.~~
- (11) ~~Miscellaneous. Business presented by the President of the Common Council.~~
- (12) ~~Introduction of new ordinances and resolutions for referral without debate. Reports of officers, departments and divisions, committees, boards and commissions presented in continuous rotation, alphabetically, including re-referrals according to the provisions of 2.05(1).~~
- (13) ~~Presentation of accounts and other claims against the City. Ordinances and resolutions referred to this meeting and not included in Item 12.~~
- (14) ~~Late items. Introduction of new ordinances and resolutions for referral without debate.~~
- (15) ~~Routine business requiring minimum deliberation (unless any such routine business item is separated out, in which case it shall be placed at the end of the agenda.) Presentation of accounts and other claims against the City of Madison.~~
- (16) ~~Routine business separated out by motion for purposes of debate and referred to the end of the agenda. Late items and addenda.~~
- (17) ~~Announcements and introduction of items from the floor.~~
- (18) ~~Any items for closed session.~~
- (19) ~~Adjournment.~~

No business shall be taken up out of said order, except by either unanimous consent and without debate or by a two-thirds (2/3) vote. The President of the Council with the consent of the CC Pro Tem is authorized to defer consideration of any item on the agenda for one meeting only and shall notify the item's sponsor(s) in writing of his/her intention to defer the item."

[Drafter's Analysis to Sec. 2.04: The order of business has been substantially modified, primarily to comport more closely with current practice. Outdated references are removed. In addition, the Consent Agenda has been moved earlier in the meeting to provide for the disposal of consent items prior to the public hearings.

It is hoped that this reordering of the business of the Council will make it less likely that Rule 2.04 will require suspension.]

## **"2.05 INTRODUCTION OF BUSINESS.**

- (1)
  - (a) All ordinances, resolutions, ~~memorials or other~~ communications shall be in writing with a brief statement of their contents endorsed thereon, together with the name of the member presenting the same, and shall be delivered to the Clerk. The committee to which any matter is referred shall report thereon in writing within a period of forty-five (45) days unless by favorable motion a different time is set by the body.
  - (b) Any business to be referred may be introduced from the floor, and if no fiscal note is prepared, will be referred to the comptroller for a fiscal note. Introduction of any matters by title only or without a fiscal note shall require a two-thirds (2/3) majority vote. Any matter introduced from the floor shall be either (i) referred to the next Common Council meeting for action or (ii) automatically referred to the next Common Council and be placed on the agenda as if for introduction, solely for the purpose of additional referrals. ~~The committee to which any matter shall be referred shall report thereon in writing within a period of forty-five (45) days unless by favorable motion a different time is set by the body.~~
- (2) The requirements of Subsection (1) above do not apply to resolutions recommended by the Board of Public Works which
  - (a) award public works contracts,
  - (b) accept identified public works improvements,
  - (c) approve plans and specifications and authorize the Board of Public Works to advertise

- (d) accept identified improvements by private contracts,
  - (e) accept identified street improvements by private contracts,
  - (f) approve plans and specifications for public improvements for identified subdivisions,
  - (g) authorize construction to be undertaken, and
  - (h) authorize amendments to previously executed contracts.
- (3) Except when introduced under Section 2.04(9) of the Madison General Ordinances from the floor, before an ordinance or resolution is introduced, or a report of an officer or committee is considered, a copy of the ordinance, or resolution, or report, or title of same shall be filed in the office of the City Clerk by ~~9:00 a.m. on the Thursday~~ 12 noon on the Wednesday preceding the meeting at which it is to be introduced. Upon request, the City Clerk shall prepare copies of the ordinance or resolution and furnish such copies to each alderperson.
- (4) Appointments of citizens, other than Common Council members, to boards, committees, or commissions by the Mayor, except the appointment of members of the Common Council, shall be submitted to the Common Council and referred to the next regular Council meeting for action.
- When appointing a citizen, the following shall be noted:
- (a) Any persons who are not City of Madison residents and the reasons for such appointment, pursuant to Sec. 3.30(2), Madison General Ordinances (MGO).
  - (b) Other committees the individual serves on.
  - (c) Initial date of the appointment.
- (5) Unless otherwise provided in these ordinances, no ordinance or resolution, having once been defeated, rejected or placed on file, may again be introduced in the same or in substantially similar form, until the expiration of ~~thirty~~ sixty (360) days from the date when such ordinance or resolution was defeated, rejected or placed on file, except for matters placed on file without prejudice.
- (6) Unless otherwise provided in these ordinances, no ordinance or resolution shall be introduced unless it is sponsored by a member of the Common Council or the Mayor or both. Use of a Common Council member's name as sponsor must be with his or her knowledge and consent. This provision shall apply not only to ordinances and resolutions, but also to all substitutes and amendments ~~thereto~~. The provisions of this ordinance subsection shall not apply to the following:
- (a) Recommendations of the City Attorney or Risk Manager relating to accounts and claims.
  - (b) Recommendations and advice of the City Attorney relating to litigation in which the City is or is going to become involved.
  - (c) Changes to ordinances and resolutions which may be mandated by state or federal law.
  - (d) Recommendations of the Personnel Board relating to the classification of positions.
  - (e) Changes to ordinances and resolutions which may be required by the adoption of the annual City Budget.
  - (f) Petitions for direct legislation pursuant to the provisions of Wis. Stat. § 9.20.
  - (g) Ordinances and resolutions necessary to implement Public Works projects previously approved in the annual City Budget or allowed under sub. (2) of this ordinance.
  - (h) ~~Ordinances and resolutions requested by a citizen as may otherwise be allowed in these ordinances.~~ Zoning map or text amendments allowed under Sec. 28.12(10)(b), MGO, to be sponsored by the Plan Commission or Planning Division.
  - (i) ~~Changes to ordinances and resolutions recommended by the City Attorney which are intended to correct errors, omissions or inconsistencies therein.~~
- (7) For any matters not sponsored by a member of the Common Council, the sponsoring officer or body shall be indicated by name.
- (8) Citizen petitions or communications may be introduced in the same manner as ordinances or resolutions, or may be presented to the Clerk for inclusion on the agenda."

[Drafter's Analysis to Sec. 2.05: Several important changes are made in this revision. Sec. 2.05(1)(b) provides that any items introduced from the floor and not containing a fiscal note will be referred to the

Comptroller for a fiscal note. It also provides that items introduced from the floor and not referred to the next Common Council meeting for action will be placed on the agenda as if for introduction, solely for the purpose of additional referrals. This will allow Council members to make additional referrals on matters introduced from the floor, at the next meeting. The existing 45-day restriction for committee action was relocated, but not changed in substance.

Sec. 2.05(3) is modified to reflect current practice since the introduction of Legistar.

Sec. 2.05(4) requires additional information from the Mayor with respect to citizen appointments.

Sec. 2.05(5) changes the time to reintroduce a defeated matter from 30 to 60 days.

Sec. 2.05(6) is modified to more accurately reflect those who may introduce ordinances or resolutions without a Common Council member as a sponsor. New Section 2.05(7) indicates that the sponsoring office or body should be indicated by name, rather than the current use of "Common Council by Request" or "Common Council by Petition."

Sec. 2.05(8) provides guidance on the sponsorship of citizen petitions or communications, and allows the Clerk to place the same on the agenda if the petition or communications was presented to the Clerk's office.]

**"2.06 QUESTIONS OF ORDER.** The presiding officer shall decide all questions of order, subject to an appeal to the Council. The City Attorney may advise the presiding officer or the Council on questions of order."

[Drafter's Analysis to Sec. 2.06: Clarified to reflect current practice. See related City Attorney's "Point of Order" memo on raising issues of procedure.]

**"2.07 PRESIDING OFFICER TO PRESERVE ORDER.** It shall be the duty of the presiding officer to preserve decorum; and if any member transgress the rules of the Council, the presiding officer shall, on her or his own or at any member's request, call such offending member to order. The Council, if appealed to, shall decide the matter. The President Pro-tem or her or his designee shall serve as sergeant-at-arms and assist the presiding officer in preserving order."

[Drafter's Analysis to Sec. 2.07: No change.]

**"2.08 MOTIONS.**

- (1) When a motion is made and seconded, it shall be deemed to be in possession of the Council, and shall be stated by the presiding officer, or being in writing, shall be delivered to the Clerk.
- (2) After a motion is stated by the presiding officer, or read by the Clerk, it shall not be withdrawn, except by the consent of the Council.
- (3) On any motion subject to debate, any alder may propose an amendment to the motion as a friendly amendment. ~~If the alder who made the motion and the alder who seconded the motion to be amended accept the amendment to the motion as a friendly amendment, the amendment shall then be considered as part of the original motion.~~ Amendments may be considered friendly and accepted into the pending motion without objection from the Council. If not so accepted, the amendment shall proceed as an amendment subject to debate and vote."

[Drafter's Analysis to Sec. 2.08: Modified to reflect current practice on friendly amendments and in accordance with *Robert's Rules of Order*. See the related City Attorney's "Point of Order" memo on withdrawal of motions.]

**"2.09 WITHOUT PREJUDICE.** "Without prejudice" means that no rights or privileges of the party concerned are to be considered waived or lost; action taken with no decision on the merits and no effect on one's ability to re-petition or refile."

[Drafter's Analysis to Sec. 2.09: No change.]

**"2.10 MOTION TO ADJOURN ALWAYS IN ORDER.** A motion to adjourn shall always be in order, unless the Council is engaged in voting, and shall be decided without debate, pursuant to Robert's Rules of Order."

[Drafter's Analysis to Sec. 2.10: Modified to make specific reference to *Robert's Rules of Order*. As noted in the related "Point of Order" memorandum from the City Attorney, *Robert's Rules* designates a Motion

to Adjourn as not debatable. However, *Robert's Rules* states in §21, page 230 (10<sup>th</sup> Ed) that members of the assembly may "inform the assembly of business requiring attention before adjournment;" or may "make important announcements;" following a motion to adjourn. The committee considered modifying this rule, but felt that educating members about these exceptions to the "non-debatable" status of a motion to adjourn would satisfy any concerns.]

**"2.11 PREVIOUS QUESTION.** The Council by a two-thirds (2/3) vote may terminate debate on any question before the Council. Termination of debate, however, shall not preclude the right of any alderman to ask for information from City staff."

[Drafter's Analysis to Sec. 2.11: No change.]

**"2.12 DIVISION OF QUESTION.**

- (1) Any member may call for a division of the question (separation) when the ~~same will admit thereof~~ question is one that may be divided.
- (2) When a question has been divided, no member shall speak more than twice nor for more than ten (10) minutes on any motion with reference to any single item as to which separate consideration has been granted, unless the Council by a two-thirds vote of the members present shall grant an extension of said time."

[Drafter's Analysis to Sec. 2.12: Clarification.]

**"2.13 DEBATE.**

- (1) When a member is about to speak to a question or make a motion, s/he shall address the presiding officer, and the presiding officer shall pronounce the name of the member entitled to the floor; and the member shall confine himself or herself to the question under consideration.
- (2) No member shall speak more than twice on any question or motion nor more than ten (10) minutes at any one time, without leave of two-thirds (2/3) of the members present."

[Drafter's Analysis to Sec. 2.13: Clarification.]

**"2.14 FORM OF QUESTION.** The call for the vote shall be stated substantially as follows:

- (a) If a voice vote: "All those in favor of . . . signify by saying 'aye', those opposed, 'no'".
- (b) If a roll-call vote: "All those in favor of . . . signify by saying 'aye', those opposed, 'no' and the Clerk will call the roll."

[Drafter's Analysis to Sec. 2.14: No change.]

**"2.15 ~~RESERVED FOR FUTURE USE~~ PRESENCE REQUIRED AT MEETINGS; ELECTRONIC COMMUNICATIONS.**

- (1) No member shall be allowed to vote by proxy, nor shall meetings be conducted telephonically or electronically unless a special or emergency meeting is held.
- (2) No member of the Council shall communicate electronically with another member of the Council during a meeting on any matter on the meeting agenda, unless the electronic communication is saved and available under the Public Records Law and unless such communication in no way violates the Open Meetings Law.

[Drafter's Analysis to Sec. 2.15: This is a new provision. It explicitly states the rule that a member may not vote by proxy and states that a meeting shall not be conducted telephonically or electronically unless it is a special or emergency meeting. It further provides that Council members are not to communicate electronically during a meeting on any item on the agenda unless the communication is saved as a Public Record and does not violate the Open Meetings Law.]

**"2.16 ~~AYE AND NOROLL CALL VOTE.~~**

- (1) The ayes and noes shall be taken and recorded upon any question or motion before the Council, upon the call of any ~~two~~ members. While the Clerk is calling the ayes and noes, ~~the members shall vote from seat, and~~ it shall not be in order for any member to explain his vote ~~during the calling of the ayes and noes.~~

(2) Any member present who, when a matter is put to a roll call vote, passes, fails to vote or refuses to vote shall be recorded as voting “No” for the sole purpose of determining the Mayor’s entitlement to vote. This rule shall not apply where a member abstains from voting by reason of a conflict of interest.

(3) Any unexcused absence at the time a roll call vote is taken shall be recorded as “not present”.

[Drafter’s Analysis to Sec. 2.16: Clarification.]

**“2.17 ROLL CALLS TO BE IN CONTINUOUS ROTATION.** On roll call votes at Council meetings, the Clerk shall progress one (1) name on the Council roster beginning each meeting when beginning each roll call vote.”

[Drafter’s Analysis to Sec. 2.17: No change.]

**“2.18 MAJORITY VOTE OF ALL MEMBERS REQUIRED.** All laws, ordinances, rules, resolutions and motions shall be passed by an affirmative vote of a majority of all the members of the Common Council unless an extraordinary vote is required by law. When an extraordinary vote is required, the respective extraordinary majority shall be of all the members of the Common Council. This rule is subject to the exceptions set out in Secs. 2.13(2), 2.185, 9.21(4)(g), 28.12(10)(g), MGO.”

[Drafter’s Analysis to Sec. 2.18: This provision is clarified to reference those provisions of the general ordinances where the “Rule of 11” does not apply.]

**“2.185 CALL OF THE HOUSE.**

(1) Any member may request by motion a call of the house in the presence or absence of a quorum and thereby require unexcused absent members to be sent for. Such a motion is in order at any time, except when the Council is engaged in voting. The motion shall be decided by a roll call vote and passed by an affirmative vote of a majority of all members present.

(2) While the Common Council is under call, and if a quorum is present, business may be transacted as if there were no call, except that no further action may be taken on the specific question under consideration when the call was ordered.

(3) When the attendance of absent members is secured, each of said members shall have the opportunity to explain her or his absence; however, such explanation will not be mandatory. In addition, no fees or penalties will be assessed against any such member.”

[Drafter’s Analysis to Sec. 2.185: Clarify to be in accord with *Robert’s Rules*.]

**“2.19 RESOLUTIONS OR ORDINANCES APPROPRIATING FUNDS.**

No appropriation shall be made or voted from any City fund for any purpose except upon an affirmative vote of three-fourths (3/4) of all members of the Common Council provided, however, that adoption of the annual budget shall be a simple majority vote item.”

[Drafter’s Analysis to Sec. 2.19: No change.]

**“2.20 MAYOR TO BE PRESIDING OFFICER; MAYOR ADDRESSING THE COUNCIL.**

(1) The Mayor shall be the presiding officer. In the absence of the Mayor, the pPresident of the Council or the pPresident pPro tTem (in order) shall preside at meetings of the Council. In the absence of the Mayor, the President of the Council, and the President Pro Tem, the Council shall designate an Alder to take the chair. An Alder acting as chair may vote on any matter before the Council.

(2) In instances in which the Mayor wishes to address the Common Council on a substantive matter and not merely in his or her role as Chair of the Council, the following procedures shall apply:

(a) If the Mayor wishes to address the Council briefly, for purposes of information or clarification on a matter before the Council, the Mayor may do so from the Chair, provided there is not an objection from an Alder to such address. The Mayor should preface such information or clarification by informing the Council that he or she wishes to provide such information and proceeding, unless there is an objection to the Mayor



- speaking from the Chair. If there is such an objection, the Mayor shall follow the procedure set out below.
- (b) In the event the Mayor wishes to address the Council in an attempt to influence the vote on a matter before it, the Mayor shall relinquish the Chair until such time as the Mayor has concluded addressing the Council. The Mayor may then return to the Chair. Having once relinquished and resumed the Chair on any matter, the Mayor may not again address the Council on that matter.
  - (c) When the Mayor relinquishes the Chair, the Chair shall be assumed by the President of the Council or in the absence of the President, the President Pro Tem. In the absence of both the President and President Pro Tem, the Mayor shall designate an Alder to take the Chair.
  - (d) If an Alder assumes the Chair, the Alder may vote on the matter before the Council. Relinquishment of the Chair by the Mayor does not change the Mayor's right to vote.
  - (e) The procedure set forth in this subsection applies to any Alder who is in the role of Chair of the Common Council."

[Drafter's Analysis to Sec. 2.20: Clarify to match current practice. See related City Attorney "Point of Order" memo on the Mayor addressing the Council.]

#### **"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 pPresident of the Council and another member to act as pPresident Pro Tem of the Common Council, pursuant to the provision of Wis. Stat. § 62.09(8)(e). The pPresident 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), and 33.13 (Common Council Organizational Committee), MGO."

[Drafter's Analysis to Sec. 2.205: Clarified to set out at least some of the obligations of the President and President Pro Tem of the Council.]

**"2.21 RECONSIDERATION OF QUESTION.** It shall be in order for any member who voted in the affirmative on any question which was adopted, or for any member who voted in the negative when the number of affirmative votes was insufficient for adoption to move a reconsideration of such vote, at the same or next succeeding regular meeting of the Council. It shall be in order for any member who was, due to an excused absence, not present at the time the question was considered to move reconsideration of such vote at the next succeeding regular meeting of the Council. A motion to reconsider having been lost shall not be again in order. A motion to reconsider shall not be in order when the same result can be obtained by another motion."

[Drafter's Analysis to Sec. 2.21: No change. See related City Attorney "Point of Order" memos on reconsideration.]

**"2.22 MEMBERS MAY FILE PROTESTS AGAINST COUNCIL ACTION.** Any member in the minority on any vote shall have the right to have the reasons for his or her dissent from or protest against, any action of the Common Council entered on the ~~minutes~~proceedings. Such reasons may be either stated orally after the result of the vote is announced or filed in writing with the Clerk and entered in the record of the Common Council."

[Drafter's Analysis to Sec. 2.22: Clarification change.]

**"2.23 CLAIMS AGAINST THE CITY.** The City Attorney is authorized to settle ~~accounts,~~ claims, demands, and suits against the City up to and including the sum of ~~ten~~ twenty-five thousand dollars (\$~~10~~25,000) per account, claim, demand or suit. No ~~account,~~ claim, demand, or suit against the City requiring payment in excess of ~~ten~~ twenty-five thousand dollars (\$~~10~~25,000) shall be allowed until the same has been considered and reported upon by the City Attorney and approved by the Common Council. ~~The City Attorney shall annually provide to the Board of Estimates an accounting of such accounts, claims,~~

~~demands and suits paid pursuant to this ordinance.”~~

[Drafter’s Analysis to Sec. 2.23: This provision dates back to a time when nearly all claims against the City were handled through the City Attorney’s Office. Since the creation of WMMIC, nearly all claims are handled through the Risk Manager and WMMIC, with input from the City Attorney’s Office. While the claims are presented to the Council by the Risk Manager, claims may be settled by WMMIC without further action by the Council. That practice has not changed.

This provision relates to claims or demands that would be outside of coverage by WMMIC or other insurance. It allows the City Attorney to settle claims up to \$25,000. Any claim above that should be presented to the Common Council for approval.]

**“2.24 ORDINANCES.**

- (1) No ordinance shall be acted upon on the same day on which it was introduced, unless suspension of the rules has been approved, according to Sec. 2.34, MGO, and action on the item has been publicly noticed as required by the open meetings law.
- (2) When the committee to which an ordinance has been referred ~~reports~~ reports such ordinance to the Council at a subsequent meeting, the ordinance shall stand for final action in accordance with the report of the committee. If the ordinance is modified by the committee, it will stand as a substitute if the sponsor of the ordinance so agrees; notwithstanding that if the sponsor does not so agree, such the committee reports shall stand as an amended or substituted alternate ordinance, provided that such amendment alternate or substitution substitute is germane to the ordinance originally referred to such committee.
- (3) No ordinance shall relate to more than one subject, which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed, and when practicable all ordinances shall be introduced as amendments to existing ordinances or sections thereof.
- (4) Any matter referred to more than one board, committee or commission shall have a lead referral. Non-lead referral bodies shall make recommendations that the lead referral will consider. The recommendation of the lead referral usually will be presented to the Common Council as the recommended action, either in the form originally introduced or as a substitute or alternate.”

[Drafter’s Analysis to Sec. 2.24: This provision is modified to reflect the current practice in Legistar with respect to substitute and alternate ordinances. See the related memorandum of the City Attorney, included as an attachment hereto.]

**“2.25 RESOLUTIONS.** ~~Unless immediate consideration be moved, all resolutions shall be referred by motion to the Common Council or any other appropriate body; provided, that any resolution providing for the appropriation of money shall designate the particular fund from which the appropriation is to be made and shall not be granted immediate consideration unless the votes of the number of members required for the affirmance of such resolution shall be cast in favor of immediate consideration and action on the item has been publicly noticed as required by the open meetings law. Upon a motion for immediate consideration, the presiding officer shall put the question “Is there any objection to an immediate consideration of the resolution?” An objection voiced by one member shall require a roll call upon the motion for immediate consideration. If no objection is voiced the Clerk shall record a unanimous consent to the motion for immediate consideration and the presiding officer shall proceed to state the principal question.~~

- (1) No resolution, except for an honoring resolution, shall be acted upon on the same day on which it was introduced, unless suspension of the rules has been approved, according to Sec. 2.34, MGO, and action on the item has been publicly noticed as required by the open meetings law.
- (2) When the committee to which a resolution has been referred reports such resolution to the Council at a subsequent meeting, the resolution shall stand for final action in accordance with the report of the committee. If the resolution is modified by the committee, it will stand as a substitute if the sponsor of the resolution so agrees; if the sponsor does not so agree, the committee report shall stand as an alternate resolution, provided that such alternate or

- substitute is germane to the resolution originally referred to such committee.
- (3) Any matter referred to more than one board, committee or commission shall have a lead referral. Non-lead referral bodies shall make recommendations that the lead referral will consider. The recommendation of the lead referral usually will be presented to the Common Council as the recommended action, either in the form originally introduced or as a substitute or alternate."

[Drafter's Analysis to Sec. 2.25: Modify to reflect current practice and the changes required since the use of Legistar with respect to resolutions. See the related memorandum of the City Attorney, included as an attachment hereto.]

**"2.26 MOTION TO RESCIND.** A motion to rescind an action of the Common Council will be considered only if notice of intent to make said motion had been given at the preceding regular Council meeting. The notice of said motion shall be in writing and shall be accompanied by a copy of the appropriate legislation effectuating such rescission. A motion to rescind without such notice will be considered only in an emergency situation as determined by the presiding officer and will only be adopted by a two-thirds (2/3) vote. A motion to rescind will not be considered after publication of the legislation sought to be rescinded.

~~A motion to rescind without notice will be considered only in an emergency situation as determined by the presiding officer and will only be adopted by a two-thirds (2/3) vote.~~

~~A motion to rescind will not be considered after publication of the legislation sought to be rescinded."~~

[Drafter's Analysis to Sec. 2.26: Provisions combined into one paragraph.]

**~~"2.27 RESERVED FOR FUTURE USE. REPORTS AND RESOLUTIONS TO BE FILED WITH CLERK.~~** ~~All reports and resolutions shall be filed with the Clerk and entered on the minutes. Reports filed with the Clerk after 12:00 noon on the Friday before the regular meeting of the Common Council shall not be acted upon at that meeting, but shall be referred to the Council's next regular meeting."~~

[Drafter's Analysis to Sec. 2.27: Deleted as repetitive of prior provisions.]

**~~"2.28 RESERVED FOR FUTURE USE. APPOINTMENT OF SPECIAL COMMITTEES.~~** ~~All special committees shall be appointed by the Mayor and confirmed by the Common Council, unless otherwise directed by the Council."~~

[Drafter's Analysis to Sec. 2.28: Deleted as repetitive of other provisions.]

**"2.29 CITIZENS RIGHT TO ADDRESS COMMON COUNCIL.**

- (1) Except as hereinafter set forth, any citizen shall have the right to speak on any item of business that is on the agenda for Common Council action if he/she registers to speak on that item before the item comes up for action.
- (2) Except for informational and public hearings, speakers shall be limited to a three-minute address unless the Common Council agrees by a two-thirds (2/3) vote to extend the time.
- (3) Provided, that a speaker who requires an interpreter, either because of his/her limited English proficiency or because of a disability, may speak for six (6) minutes. No citizen shall be permitted to speak on petitions and communications when first introduced before the Common Council and which are scheduled to be referred and reported back at a later meeting.
- (4) No person shall submit a registration or appearance form for any meeting unless that person actually attends some portion of the meeting at which the registration or appearance is submitted, or personally delivers the form at the place of the meeting within thirty (30) minutes of the scheduled starting time of the meeting. This limitation does not apply to any person who is eligible to register with the City Clerk for automatic absentee balloting under Wis. Stat. § 6.86 (2)(a)."

[Drafter's Analysis to Sec. 2.29: Clarify by breaking into subdivisions and to reflect current practice.]

**"2.30 PUBLIC HEARINGS.**

- (1) In conducting a public hearing, the Common Council shall allow all interested parties an opportunity to speak on the subject matter of the hearing before submitting questions to any of the speakers.
- (2) Each speaker is limited to five (5) minutes, unless the Common Council agrees by a 2/3 vote to extend the time, provided, that a speaker who requires an interpreter, either because of his/her limited English proficiency or because of a disability, may speak for ten (10) minutes.
- (3) At the beginning of the public hearing, the presiding officer shall request all subsequent speakers to remain in the Council Chambers until the conclusion of the public hearing so that they may be available for questioning by the Council members.”

[Drafter’s Analysis to Sec. 2.30: Clarify by breaking into separate subdivisions.]

**“2.31 NO PERSONS ALLOWED ON COUNCIL FLOOR EXCEPT MEMBERS OF COUNCIL.**

No persons except members and officers of the Council or City Staff shall be allowed to come to the Council floor during the session of the Council without the permission of the presiding officer. The Council may designate certain seats in the rear of the Council Chambers for media.”

[Drafter’s Analysis to Sec. 2.31: Modify to reflect current practice.]

**“2.32 ROBERTS RULES OF ORDER TO GOVERN COUNCIL.** In the absence of a standing rule the Council shall be governed by Roberts Rules of Order.”

[Drafter’s Analysis to Sec. 2.32: No change.]

**“2.33 TRANSACTION OF BUSINESS AT SPECIAL MEETINGS.** At special meetings of the Council, no business shall be transacted but that for which the meeting shall have been called. No business may be introduced from the floor at a special meeting.”

[Drafter’s Analysis to Sec. 2.33: Modify to eliminate the ability to introduce items from the floor at a special meeting of the Council.]

**“2.34 SUSPENSION OF RULES.**

- (1) The assent of two-thirds (2/3) of all members of the Council shall be required to suspend, alter, or modify any of the rules in this Chapter for a given meeting. These rules also may be amended by ordinance.
- (2) When a member moves a suspension of the rules he shall be required to state the reason to which his motion is addressed. The presiding officer shall then put the question, “Is there any objection to the suspension of the rules in accordance with the motion?” If no such objection is made, the Clerk shall record a unanimous consent to the suspension of the rules, and the presiding officer shall then proceed to state the principal question.”

[Drafter’s Analysis to Sec. 2.34: Modified for clarification.]

**“2.35 PROCEEDINGS OF COUNCIL MEETINGS.**

- (1) All regular meetings of the Common Council shall be recorded electronically.
- (2) The recordings shall be protected and maintained and may only be destroyed in conformance with the procedures of Section 3.70 entitled “Public Records” of the Madison General Ordinances.
- (3) These recordings shall be considered public records subject to inspection under Section 3.70 of the Madison General Ordinances.”

[Drafter’s Analysis to Sec. 2.35: No change.]

**“2.36 COUNCIL PROCEEDINGS.** As provided in Section 3.43 05 of these ordinances, the City Clerk shall be responsible for the publication, filing, indexing and safekeeping of all proceedings of the Common Council. As further provided in Sec. 3.70(2), MGO, the City Clerk is the legal custodian of the records of the Common Council.

As required by Wis. Stat. § 62.09(8)(c), the Clerk shall submit all acts of the Council to the Mayor for his/her approval or disapproval.”

[Drafter's Analysis to Sec. 2.36: No change.]

**"2.37 RESERVED FOR FUTURE USE.**

**2.38 COMMON COUNCIL CONFIRMATION HEARING.**

- (1) ~~By resolution, the Common Council may confirm the appointment of a person as a City employee submitted for approval or confirmation for any compensated position, other than the positions of election officials or members of City boards, committees or commissions. Appointments of managers pursuant to Sec. 3.54(6)(f), MGO, shall be submitted to the Common Council for confirmation.~~
- (2) Action on the recommendation to confirm shall take place not less than ten (10) business days after submission of the recommendation to the Common Council. The Common Council shall place the matter on the agenda for a vote on the recommendation within thirty-one (31) days after the date of submission of the recommendation for confirmation.
- (3) The Human Resources Director shall distribute all personnel data pertaining to such appointee, including all resumes, job applications or other appropriate information in the possession of City officials, to the Clerk for distribution to all members of the Common Council at least five (5) business days prior to the date for action on the recommendation to confirm, by the deadline set forth in Sec. 2.05(3), MGO.
- (4) Any person so appointed shall be present at the designated meeting to respond to all questions directed to such appointee by members of the Common Council and shall have the right to address members of the Common Council in attendance at the such meeting.
- (5) The Common Council may, ~~by resolution, waive the requirements of Subsections (2) and (3) and (4) in the event of reappointment of the incumbent. However, if the Common Council does not act on the recommendation to reappoint the incumbent within twenty (20) days of the date of submission to reappoint, the incumbent shall be deemed confirmed.~~

[Drafter's Analysis to Sec. 2.38: Modify to reflect current practice. A thirty one (31) day time limit for for the Council to place a recommendation for appointment on the Council agenda is pursuant to an ordinance change adopted by the Council on November 6, 2007.]

**"2.39 INFORMATIONAL HEARINGS.**

The Common Council, by motion, ~~or the Common Council President~~ may set any item, except those items for which a public hearing is required by operation of law, for an informational hearing to be held before the Common Council pursuant to Sec. 2.04(9), MGO. Speakers registered to speak ~~pursuant to Sec. 2.29 of the Madison General Ordinances shall at the informational hearing be limited to presentations of not more than five (5) minutes shall be subject to the time limits set forth in Sec. 2.30, MGO.~~ Upon the conclusion of the informational hearing the item shall be referred to a subsequent meeting for consideration and no action shall be taken on the item at the time of the informational hearing unless noticed and the Common Council suspends this rule."

[Drafter's Analysis to Sec. 2.39: Modify to reflect current use of informational hearings. Note that this section refers to informational hearings held as part of the normal agenda of a regular Common Council meeting. What were previously called special meetings for informational purposes are now entitled "informal meetings" in Sec. 2.01 (7).]

**"2.40 LOBBYING REGULATED.**

- (1) Legislative Intent. The Common Council finds that it is in the public interest that the fullest opportunity be afforded to the people of Madison to petition their government and to express freely to City officials and employees their opinions on legislation and on all City policies and activities. The Common Council also recognizes the right of the people of Madison to know who seeks to influence the actions of their City government. The Council finds that, in order to preserve the integrity of the City's decision-making processes, it is necessary to establish a procedure whereby persons acting as lobbyists are required to provide to the public full information as to their identity, the identity of their principal, their expenditures and their lobbying activities. It is not the intent of this ordinance to discourage or limit the exercise of constitutional rights.
- (2) Definitions.
  - (a) "Administrative action" means the proposal, drafting, development, consideration, or issuance of staff recommendations, whether those recommendations are required by ordinance, or requested by the Mayor or by a board, committee, commission or the Common Council. "Administrative action" does not include a purely ministerial action by a City official or employee and it does not include action related to an enforcement action commenced by a written order, a citation, or a summons and complaint.
  - (b) "Agency" means any City department, division, board, commission, or committee.

- (c) “Business entity” means any organization or enterprise whether operated for profit or not for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, cooperative, limited liability company or association.
- (d) “Business owner” means a person that conducts commercial or other business operations (including non-profit activities). For purposes of the exemptions set forth in sub. (3)(i) of this ordinance, all individuals who are owners, employees, directors or officers of a business owner are entitled to the business owner’s exemption when acting on behalf of the business owner. The exemptions contained in sub. (3)(i)1.,a. of this ordinance shall only apply to business owners who own or lease real property located in the City of Madison which is used on a substantial and continuing basis for its operations, provided, however, that for any business owner with business locations both within and without the City of Madison, any employee qualifying for the above exemption must be employed at the Madison location.
- (e) “Covered City official” means the following officials of the City of Madison: elected officials, members of City of Madison boards, committees and commissions, individuals appointed by the Mayor and confirmed by the Common Council to boards, committees and commissions to represent the City of Madison, department, division, and unit heads, assistants to the Mayor, Tax Incremental Financing Coordinator, and commissioned police officers holding the rank of lieutenant or above and commissioned fire department officers holding the rank of captain or above. On or before January 15 of each year, the City Clerk shall publish on-line at the City’s website a list of all positions that are “Covered City officials,” except for members of boards, committees and commissions.
- (f) “Design professionals” means architects, engineers, landscape architects, land surveyors or designer of engineering systems, licensed under Wis. Stat. § 443, geologists, soil scientists and hydrologists licensed under Wis. Stat. § 470, professional planners belonging to the American Institute of Certified Planners, cultural resource specialists as defined by the U.S. Secretary of Interior Professional Standards for Archeology and Historic Preservation, and photogrammetrists as certified by ASPRS, the Imaging and Geospatial Information Society.
- (g) “Independent contractor” means an individual who (i) is retained by a person located within the City of Madison for a service other than lobbying, (ii) is not an employee of the person, and (iii) is not an attorney, and (iv) does not hold himself or herself out to the public as engaged in the business of representing others for the purpose of lobbying.
- (h) “Legislative action” means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or defeat of any ordinance, resolution, amendment, report, nomination or other matter by the Common Council or by any board, committee or commission or committee or subcommittee thereof, or by a Common Council member acting in an official capacity. “Legislative action” also means the action of the mayor in approving or vetoing any ordinance or resolution, and the action of the mayor or any department, board, committee or commission or committee or subcommittee thereof in the development of a proposal for introduction to the Common Council.
- (i) “Lobbying” means the practice of attempting to influence legislative or administrative action by oral, written or electronic communication with any covered City official, and includes time spent in preparation for such communication and appearances at public hearings or meetings or service on a committee in which such preparation or communication occurs. The mere appearance and registration in support, opposition or for informational purposes at a public hearing, without speaking or engaging in any further lobbying communications, is not itself an act of lobbying; if the individual otherwise engages in lobbying activities requiring registration under this ordinance, such appearances may be lobbying. Attorneys and architects are not exempt from this ordinance. However, a certain limited area of actions taken by them are not considered lobbying: the term “lobbying” does not include actions by licensed attorneys, the performance of which is prohibited under Wis. Stat. § 757.30, to persons not licensed as attorneys; it does not include the practice of architecture, as defined in Wis. Stat. § 443.01(5), and forbidden to unregistered persons under Wis. Stat. § 443.02(2).
- (j) “Lobbying communication” means an oral, written or electronic communication with any covered City official that attempts to influence legislative or administrative action, unless exempted under Subsection (3) of this ordinance.
- (k) “Lobbying expenditure” means an expenditure related to the performance of lobbying, whether received in the form of an advance or subsequent reimbursement. The term includes an expenditure for conducting research or for providing or using information, statistics, studies or analyses in communicating with a covered City official, that would that would not have been

- incurred but for lobbying. "Lobbying expenditure" also includes all expenditures required to be reported in Sub. (10)(a)1.a. - e.
- (l) "Lobbyist" means an individual who is employed by a principal, or contracts for or receives economic consideration, other than reimbursement for actual expenses, from a principal and whose duties include lobbying on behalf of the principal, regardless of whether the individual's duties on behalf of a principal are or are not limited exclusively to lobbying. A public official acting in an official capacity on behalf of his/her governmental unit is not acting as a lobbyist.
  - (m) "Person" means an individual or business entity. "Person" shall also include recognized employee organizations, associations and representatives thereof.
  - (n) "Principal" means any person who employs a lobbyist. If a business entity engages a lobbyist, no officer, employee, member, shareholder or partner of the business entity shall be considered a principal.
  - (o) "Relative" means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, spouse, fiancé, fiancée, or registered domestic partner.
  - (p) "Reporting period" means each six month period from January 1 through June 30 and July 1 through December 31.
  - (q) "Working day" means any day except Saturday, Sunday or a holiday designated in Sec. 1.01(10) of these ordinances.
- (3) Exemptions. This ordinance does not apply to the following activities:
- (a) Lobbying through communications media or by public addresses to audiences made up principally of persons other than City of Madison officials, except that lobbying communications for which expenditures are required to be reported under Sub. (10)(a)1.e. are not exempt.
  - (b) Except as provided in Sub. (10)(a)1.e., news or feature reporting, paid advertising activities or editorial comment by working members of the press, and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station or television station.
  - (c) Requests by a member of the Common Council, or by a board, committee, or commission, for information from City employees and the furnishing of the requested information by City employees, acting in their official capacity.
  - (d) Actions taken by a public official or employee acting in his/her official capacity.
  - (e) Participation as a member of a City of Madison board, committee, commission, task force or similar body or a committee or subcommittee thereof, or participation as a member of any other board, committee, commission, task force or similar body that includes as a member thereof a City official appointed or designated as a member in his or her capacity as a City of Madison official.
  - (f) Requests by a City employee, acting in an official capacity, for information from any person and the furnishing of the information by that person. Requests by any person for information from a City employee and the furnishing of the information by that employee are also exempt.
  - (g) Lobbying through communications which are specifically identified as services required to be furnished under a contract or tariff with the City; provided that such services are fully described in annual service reports submitted by the contractor to a City agency and made available for public inspection.
  - (h) Any person acting as an unpaid volunteer.
  - (i) Individual Right to Lobby.
    - 1. Except as set forth in Subs. (3)(j) and (k) below, nothing in this ordinance may be applied so as to require registration or reporting or interfere with the right of any individual to engage in activities that might otherwise be considered lobbying:
      - a. By a business owner on behalf of his, her or its business; or
      - b. By any individual or business owner appearing before any covered City official where the person is appearing at the request of a covered City official or City employee for the sole purpose of responding to questions or requests for information from the covered City official or a City employee.
      - c. By an independent contractor provided that he or she does not make lobbying communications on more than five (5) days within a reporting period.
    - 2. Except as set forth in Sub. (3)(k) below, nothing in this ordinance may be applied so as to require registration or reporting or interfere with the right of any individual to engage in activities that might otherwise be considered lobbying:
      - a. Solely on her or his own behalf; or
      - b. By communicating solely with a Council member who represents the district in

- which the individual resides, whether or not such communication is made on behalf of the individual or on behalf of another person; or
- c. By a representative of the owner of an owner-occupied single family home or duplex, or of the owner of a lot on which the owner is to build an owner-occupied single family home or duplex, requesting a variance or other zoning change for improvements to the single family home or duplex or lot; or
  - d. By any person or his, her or its representative challenging a tax assessment before the Board of Review.
- (j) The exemptions in Sub.(i)1. are not available to any of the following individuals:
- 1. Any individual holding himself or herself out to the public as engaged in the business of representing others for the purpose of lobbying.
  - 2. Any individual employed by a trade association or organization, any organization that has a membership of or is acting on behalf of two or more business entities, or any organization that has as a purpose advocacy on issues of public policy.
  - 3. Any individual employed by a business owner if one of his or her primary job duties is lobbying, provided, however, that it shall be conclusively established that lobbying is not one of an individual's primary job duties if he or she does not make lobbying communications on more than five (5) days within a reporting period.
- (k) Provided that the City gives notice of the registration and reporting requirements under this Sec.2.40 to the person seeking City assistance or approval, the exemptions in Sub. (i)1. and 2. are not available with respect to any lobbying activities or expenditures incurred:
- 1. In seeking direct cash assistance from the City in the form of a loan, grant, TIF funding, or similar assistance (not including for this purpose the provision of goods or services directly to the City or a City agency) in an amount greater than ten thousand dollars (\$10,000) in a calendar year; or
  - 2. In seeking approval of any development or redevelopment as defined in MGO § 20.04(8) located within the City of Madison that is reasonably expected to include over 40,000 gross square feet in a non-residential building or buildings or ten (10) dwelling units.
- (l) Design professionals providing the services within the definition of their profession, but only when preparing submittals requested for City approvals, when responding to questions of City staff or at public meetings, or when presenting information only to City staff or at a public meeting.
- (4) Prohibited Practices.
- (a) No lobbyist may:
- 1. Instigate legislative or administrative action for the purpose of obtaining employment in support or opposition to the action.
  - 2. Furnish to any City of Madison official or employee or candidate for City of Madison elective office, or to the official's or candidate's personal campaign committee:
    - a. Lodging.
    - b. Transportation.
    - c. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may make a campaign contribution to a candidate for City elective office, or to the candidate's personal campaign committee.
  - 3. Contract to receive or receive compensation dependent in any manner upon the success or failure of any legislative or administrative action.
- (b) No principal may engage in the practices prohibited under paragraph (a)2. This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages or any other thing of pecuniary value which is also made available to the general public.
- (c) This subsection does not apply to food, meals, beverages or entertainment provided by the Mayor when acting in an official capacity.
- (d) This subsection does not apply to the furnishing of anything of pecuniary value by an individual who is a lobbyist or principal to a relative of the individual or an individual who resides in the same household as the individual, nor to the receipt of anything of pecuniary value by that relative or individual residing in the same household as the individual.
- (e) Paragraph (a)2. does not apply to the furnishing of anything of pecuniary value by a lobbyist or principal to an employee of that lobbyist or principal who is a City official if the thing of pecuniary value is not in excess of that customarily provided by the employer to similarly situated employees and if the City official receives no compensation for her or his services other than reimbursement for actual and necessary expenses incurred in the performance of her or his duties, nor to the receipt of anything of pecuniary value by that City official under those



- circumstances.
- (f) Paragraph (a)2. does not apply to the furnishing of educational or informational material by a lobbyist or principal to a City official or employee, or acceptance thereof by a City official or employee.
  - (g) Paragraph (a)2. does not apply to the furnishing or receipt of a reimbursement or payment for actual and reasonable expenses permitted under Sec. 3.35(6) of these ordinances.
- (5) Corrupt Means to Influence Legislation; Disclosure of Interest. No person having a pecuniary or other interest, or acting as the agent of any person in procuring or attempting to procure the passage or defeat of any measure before the Council, may attempt in any manner to influence any member of the Council for or against the measure, without first making known to the member the real and true interest she or he has in the measure, either personally or as such agent. No person may give, or agree to give, or offer to give anything of value to any person, for the service of such person or of any other person in procuring the passage or defeat of any measure before the Common Council upon the contingency or condition of the passage or defeat of the measure. No person may receive, or agree to receive anything of value for such service, upon such contingency or condition.
- (6) Registration.
- (a) Every lobbyist shall, within five (5) working days after the first lobbying communication made by the lobbyist, file with the City Clerk a registration statement specifying the lobbyist's name, business address, the general areas of legislative and administrative action which the lobbyist is attempting to influence, the names of any City agencies in which the lobbyist seeks to influence administrative action, and information sufficient to identify the principal who has hired the lobbyist and the nature and interest of the principal. The statement shall be signed by the lobbyist. The statement shall include:
    - 1. If the principal is an individual, the name and address of the individual's employer, if any, or the individual's principal place of business if self-employed, and a description of the business activity in which the individual or the individual's employer is engaged.
    - 2. If the principal is a business entity, a description of the business activity in which the principal is engaged and, in the case of a corporation, the name of its chief executive officer, in the case of a limited partnership, the name of its general partner, in the case of a manager-managed limited liability company, the name of its manager, in the case of a general partnership, limited liability partnership, or member-managed limited liability company, the names of the partners or members.
    - 3. If the principal is an industry, trade or professional association, a description of the industry, trade or profession which it represents, including a specific description of any segment or portion of the industry, trade or profession which the association exclusively or primarily represents and the name of the chief executive officer and the approximate number of its members.
    - 4. If the principal is not an individual, business entity or industry, trade or professional association, a statement of the principal's nature and purposes, including a description of any industry, trade, profession or other group with a common interest which the principal primarily represents or from which its membership or financial support is primarily derived and the approximate number of its members.
    - 5. Each proposed legislative or administrative action in connection with which the lobbyist has made or intends to make a lobbying communication during the period to which the registration applies. The proposed legislative or administrative action is sufficiently identified if it is sufficient to permit a person to ascertain without extraordinary diligence:
      - a. the specific item of legislative or administrative action or private sector business or other activity which the effort is intended to affect and how it is intended to be affected;
      - b. the industries, trades, or professions, or segments or portions thereof, that would be principally affected by the effort;
      - c. in the case of an appropriation, the City program or person for which the appropriation is proposed and the approximate amount, if known; and
      - d. such additional information as the Clerk deems necessary for compliance with this Subsection.
  - (b) The registration shall expire on December 31 of each year. If all lobbying by the lobbyist which is not exempt under Subsection (3) ceases, the City Clerk shall terminate the lobbyist's registration and any authorizations under Subsection (7) as of the day after the lobbyist files a statement of cessation and expense statements under Subsection (10) for the period covering all dates on

- which the lobbyist was registered.
- (c) Each lobbyist registered under this section shall, before a lobbyist attempts to influence legislative or administrative action in any general area or City agency not previously filed with the City Clerk, provide written notice to the City Clerk of the specific area or agency in which the lobbyist will attempt to influence legislative or administrative action. Such notice is sufficient if it complies with Subsection (6)(a)5., above.
  - (d) Every person who appears before any board, committee, or commission or before the Common Council, shall indicate on a form supplied by the City Clerk whether s/he is a registered lobbyist; whether s/he represents a person or organization other than herself or himself; whether s/he is being paid or expects to be paid for the representation; the name, address and telephone number of the person s/he represents; his/her relationship (ownership, employment, etc.) to the person or organization s/he represents; whether her/his appearance is incidental to paid other duties for this person or organization; and whether she or he understands the duty of a lobbyist to register with the City Clerk. No person shall submit a registration or appearance form for any meeting unless that person actually attends some portion of the meeting at which the registration or appearance is submitted, or personally delivers the form at the place of the meeting within thirty (30) minutes of the scheduled starting time of the meeting. This limitation does not apply to any person who is eligible to register with the City Clerk for automatic absentee balloting under Wis. Stat. § 6.86(2)(a).
- (7) Lobbyist Authorization. At the time of registration under this ordinance, a lobbyist or principal shall cause to be filed with the City Clerk a written authorization for the lobbyist to represent the principal, signed by or on behalf of the principal on such forms as the City Clerk shall direct. Such authorization shall include the lobbyist's name, current mailing address, business telephone number and whether the lobbyist is an employee of the principal.
- (8) Restrictions on Lobbying. Except as authorized under Subsection (3), no person may engage in lobbying as a lobbyist unless the person has complied with the registration requirements under Subsection (6)(a) and the authorization under Subsection (7) has been filed.
- (9) Identification of Legislative and Administrative Proposals. Except as authorized under Subsection (3), no person may engage in lobbying as a lobbyist unless, no later than the end of the fifth working day after the lobbyist makes a lobbying communication with respect to a legislative proposal or proposed administrative action not previously identified by the principal under Subsection (6)(a)5. or reported under this section during the period for which the principal is registered, the lobbyist reports to the City Clerk in such manner as the Clerk may prescribe, each proposed legislative or administrative action in connection with which the lobbyist has made or intends to make a lobbying communication. Such report is sufficient if it complies with Subsection (6)(a)5., above. With respect to a lobbying communication relating to the capital or operating budget, the principal shall further identify from among topics provided by the Clerk the topic or topics of its lobbying communications, if any.
- (10) Expense Statement on Behalf of Principal.
- (a) Statement. Every principal who makes expenditures or incurs obligations in an aggregate amount exceeding \$1,000 in any reporting period for the purpose of engaging in lobbying which is not exempt under Subsection (3) shall, for the remainder of that calendar year, file with the City Clerk an expense statement covering each preceding reporting period. Every registered principal who does not make expenditures or incur obligations in an aggregate amount exceeding \$1,000 in any reporting period for the purpose of engaging in lobbying which is not exempt under Subsection (3) shall, file with the City Clerk an statement indicating that expenditures and obligations for the reporting period did not exceed \$1,000. Such statement shall be filed on or before July 31 and January 31. The statement shall be signed under the penalty for making false statements provided in Subsection (13)(c), by the lobbyist, if so authorized by the principal, or by the principal. The statement shall contain the following information:
    - 1. The aggregate total amount of lobbying expenditures made and obligations incurred for lobbying activities by the principal and all lobbyists for the principal, excluding lobbying expenditures and obligations for the principal's clerical employees and lobbying expenditures and obligations specified in Paragraphs 2. and 4. below. With respect to expenditures and obligations included in the amount reported under this paragraph:
      - a. Lobbying expenditures made and obligations incurred for lobbying shall include compensation to lobbyists for lobbying, whether in cash or in kind, and reimbursements to lobbyists and to the principal or officers or employees of the principal for lobbying or expenses.

- b. Except as provided in Subparagraph c., lobbying expenditures made and obligations incurred in preparing for lobbying shall be included in the aggregate total.
  - c. A reasonable estimate of lobbying expenditures made and obligations incurred for conducting, compiling or preparing research, information, statistics, studies or analyses used in lobbying shall be included in the aggregate total. Lobbying expenditures and obligations shall not be reported under this paragraph if the use in lobbying occurs more than three (3) years after the completion of the research or the compilation or preparation of the information, statistics, studies or analyses. If the research, information, statistics, studies or analyses are used by the principal both for lobbying and for purposes other than lobbying, the principal shall allocate the lobbying expenditures and obligations among the purposes for which the research, information, statistics, studies or analyses are used and include the portion allocated to lobbying in the aggregate total.
  - d. Lobbying expenditures made and obligations incurred for providing or using research, information, statistics, studies or analyses in lobbying shall be included in the aggregate total.
  - e. Lobbying expenditures made and obligations incurred for paid advertising and any other activities conducted for the purpose of urging members of the general public to attempt to influence City of Madison legislative or administrative action shall be included in the aggregate total.
2. If a lobbyist is an employee, officer or director of a principal and the lobbyist is paid a salary or given consideration other than reimbursement of expenses, the aggregate total amount of lobbying expenditures made or obligations incurred by the principal for office space, utilities, supplies and compensation of employees who are utilized in preparing for lobbying communications. Any lobbying expenditures made or obligations incurred for the office overhead costs which are included in the amount reported under Subdivision (a)1. shall not be included in the amounts reported under this Subdivision (a).
  3. The principal's expense report shall include a record disclosing each lobbying communication. The record shall be supplied on a form provided by the City Clerk and shall include identification of each covered City official contacted, the number of times each official received a lobbying communication, the subject of each communication, and the identity of the lobbyist who made the communication.
  4. The total lobbying expenditures made and obligations incurred for personal travel and living expenses.
- (b) Estimates.
1. If the principal compensates or reimburses a lobbyist or employee both for lobbying activities or expenses which are not exempt under Subsection (3) above and for other activities or expenses, for the purposes of Subdivision (a)1. a. or f., the lobbyist or principal may estimate and report the portion of the compensation or reimbursement paid for nonexempt lobbying activities or expenses.
  2. Any reasonable estimate or allocation made in good faith under Subdivision (a)1.c. or 3. of this subsection fulfills the requirements of this subsection.
- (c) Exempt Activities. Lobbying expenditures made and obligations incurred for activities identified under Subsection (3)(a)-(f) are not required to be reported under Subsection (10)(a), regardless of whether the principal or a lobbyist for the principal also engages in lobbying activities which are not identified in Subsection (3)(a)-(f).
- (d) Reports by Lobbyist. A lobbyist whose activities and expenditures are required to be reported by a principal under Subsection (10)(a) shall provide to the principal information which the principal determines is needed to prepare the statement. The principal shall file a copy of the information, signed by the lobbyist under the penalty for making false statements provided in Subsection (13)(c) with the City Clerk at the time of filing the statement under Subsection (10)(a).
- (e) Records. Each principal and each lobbyist engaged by a principal shall obtain, organize and preserve all accounts, bills, receipts, books, papers and other documents necessary to substantiate the expense statement for three (3) years after the date of filing the expense statement. A principal may permit its authorized lobbyist to maintain any of the records identified in this subsection on its behalf.
- (f) Suspension for Failure to File a Complete Expense Statement. If a principal, or a lobbyist if authorized to file on behalf of the principal, fails to timely file a complete expense statement

under this Subsection, the City Clerk may suspend the privilege of any lobbyist to lobby. Upon failure of a principal to file the required expense statement, the Clerk shall mail written notices to the principal and to any lobbyist for whom a written authorization has been filed under Subsection (7) to act as a lobbyist for the principal informing them that unless the principal files the delinquent statement with ten (10) business days after the date of mailing of the notices, no lobbyist may lobby on behalf of the principal. The privilege of any lobbyist to lobby on behalf of the principal shall be restored immediately upon the filing of the delinquent statement. The notices shall be sent by certified mail to the last-known addresses of the principal and lobbyist. Any principal or lobbyist who is aggrieved by a suspension of lobbying privileges under this subsection may request a hearing under Section 9.49 of these ordinances regarding the suspension.

(11) Duties of the City Clerk.

- (a) The Clerk shall prescribe forms and instructions for preparing and filing registration applications under Subsection (6) and the statement required under Subsection (10).
- (b) At the time of initial registration and re-registration, the City Clerk shall provide the lobbyist with a copy of the City's lobbyist law and any related material which the Clerk determines will serve the purposes of this ordinance.
- (c) Statements required under this section to be filed with the City Clerk shall be preserved for a period of three (3) years from the date of filing, shall constitute part of the public records of his or her office, and shall be open to public inspection.
- (d) The Clerk shall compile and make available information filed under this ordinance in ways designed to facilitate access to the information.
- (e) Any person who believes a violation has occurred may file a written complaint form with the City Clerk who shall refer the matter to the City Attorney.
- (f) The City Clerk, in consultation with the Organizational Development and Training Unit, shall conduct semi-annual training workshops concerning this ordinance.

(12) Duties of the City Attorney.

- (a) The City Attorney shall participate in the workshops conducted by the City Clerk.
- (b) Upon receipt of a referral from the City Clerk, the City Attorney shall review alleged violations of this section to determine whether the allegation has merit. The City Attorney may summarily dismiss any allegation which s/he finds to be without merit.
- (c) If the City Attorney believes an allegation has merit, s/he shall prepare and file a complaint in Municipal Court. The complaint shall identify the provision of this ordinance alleged to be violated.
- (d) No later than April 1 of each year, the City Attorney shall file a report with the Mayor and the Common Council concerning actions s/he has taken under this section and the disposition of those actions, including a summary of its determinations.
- (e) The City Attorney may commence a civil action to require forfeitures for any violation of this section.

(13) Duty to Cooperate. Principals and lobbyists are required to keep and maintain legible copies of all accounts, bills, receipts, books, papers and other documents necessary to substantiate any expense statement and other required filings under this ordinance. Such records shall be maintained for a period of not less than three (3) years after the filing of such expense statements or other required filings. Such records or other information requested in relation to any investigation under this ordinance shall be provided to the City Attorney within fifteen (15) days of a request by the City Attorney for the production of such records.

(14) Penalties.

- (a) Any lobbyist who violates any provision of this ordinance may be required to forfeit not more than \$5,000.
- (b) Any principal who violates any provision of this ordinance may be required to forfeit not more than \$1,000.
- (c) Any person who files or causes to be filed a falsified statement under Sub.(10) may be required to forfeit not more than \$1,000 in addition to any forfeiture imposed under any other provision of this ordinance.
- (d) Any principal, lobbyist or other individual acting on behalf of a principal who files a statement under Subs. (7), (9), or (10) which he or she does not believe to be true may be required to forfeit not more than \$1,000 in addition to any forfeiture imposed under any other provision of this ordinance.

(15) Severability. The provisions of any part of this section are severable. If any provision or subsection

hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included.”

[Drafter’s Analysis to Sec. 2.40: No change.]