

RULES, PROCEDURES AND POLICIES

I. Introduction

Wisconsin Statutes leave the basic responsibility for drawing up rules of order to the Council. Sec. 62.11(3) Wis. Stats., provides that meetings must be open to the public, grants the Council authority to punish by fine any member or other person present engaging in “disorderly behavior” and establishes procedures concerning quorums and voting, but otherwise provides that “the Council shall in all other respects determine the rules of its procedure.”

The Madison Common Council has adopted standing rules. They are contained in Chapter 2, Madison General Ordinances (MGO). In the absence of such rules, Council procedures are governed by Robert’s Rules of Order (under provisions of Sec. 2.32, MGO). Some Council policies are established from time to time by resolution.

II. Basic Organization of the Common Council

A. How Constituted

Under Sec. 62.11(1), Wis. Stats., the “Mayor and aldermen shall be the Common Council.”

B. Time and Place of Meetings

Sec. 62.11(2), Wis. Stats., provides that “the council shall meet at least once a month, and on the first Tuesday unless a different day be fixed by the council. Following a regular city election, the new council shall first meet on the third Tuesday of April.”

Sec. 2.01, MGO, provides that the “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.”

Under Sec. 2.01(4), MGO, the Common Council does not meet on the following holidays: New Year’s Eve, New Year’s Day, Memorial Day, Independence Day, Labor 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 offices or positions are decided. By custom, the Council does not meet on Jewish holidays.

C. Recessed Meetings

If, for some reason, the Council’s business is not finished, the Council may recess its meeting and stipulate that the recessed meeting will continue at “a time certain.” Usually that time is the next regularly scheduled meeting. The Council then completes its recessed meeting, adjourns, and is called to order for the regularly scheduled meeting.

D. Special Meetings

If an emergency arises between regularly scheduled Council meetings, the Mayor may call a special meeting. Written notice of a special meeting must be delivered personally to each member or left at the member's usual abode at least six (6) hours before the special meeting. See Sec. 62.11(2) Wis. Stats. Under Sec. 2.33, MGO, the special business for which the special meeting was called is the only business that may be transacted. In practice, Council members receive this notice from Council staff in the Council Office.

E. Open Meeting Requirement

Sec. 62.11(3)(c), Wis. Stats., requires, in part, that meetings of the Council be "open to the public."

Wisconsin's revised "Open Meetings Law" (Sec. 19.81, Wis. Stats.) applies to meetings of the Common Council, and to meetings of city boards, committees, and commissions. Attached is an "Open Meetings Law" outline [see Appendix A] that includes questions and answers.) The open meeting statute also requires at least twenty-four (24) hours public notice for any meeting of a governmental body, except in emergencies. (Sec. 19.81, Wis. Stats.)

F. Attendance at Meetings

Pursuant to Sec. 62.11(3)(a), Wis. Stats., the Council "may compel" the attendance of Council members "and may fine or expel for neglect of duty."

Sec. 2.025, MGO, states "Every alderperson who for whatever reason cannot attend the regularly scheduled meeting of the Common Council shall notify Common Council office staff of such absence by 9:00 a.m. the Thursday prior to the meeting in question." Where advance notice of absence is impossible, the written statement of excused absence shall be filed with the City Clerk within one week of the absence. In an emergency, oral notice may be given to the City Clerk or another alderperson at any time prior to or during the meeting but the written statement must be filed later. A Council member who provides this oral notice in an emergency must follow-up by filing a written statement with the Clerk.

G. Quorum, Cancellation or Adjournment of Meetings

Sec. 62.11(3)(b), Wis. Stats., stipulates that "two-thirds of the members shall be a quorum." However, Sec. 62.11(1), Wis. Stats., provides that the "Mayor shall not be counted in determining whether a quorum is present at a meeting." Sec. 62.11(3)(b), Wis. Stats., also permits "a less number" to "compel the attendance of absent members and adjourn."

Council Resolution No. 21,518 also resolves that the Clerk and the Mayor may review the attendance situation after 4:00 p.m. on the day of the Council meeting and if they determine that no quorum will be present, the meeting shall be canceled. The Clerk is required to notify Council members and the media of such cancellation.

This resolution was drafted by City Attorney Edwin Conrad. Conrad notes that “in theory, under Robert’s Rules of Order, a regular session of the meeting scheduled for that particular evening should be called by the City Clerk. If the City Clerk cannot then secure a quorum, it devolves upon the members present to adjourn to some other time. The members present, of course, do not have the power to cancel the meeting, but they do have the power to adjourn the meeting and this power can be exercised by a number less than a quorum.”

Sec. 2.01(6), MGO, states that “the motion to adjourn shall be made by any member. All agenda items not dealt with before the motion to adjourn shall be automatically referred to the next regular meeting.”

H. Order of Business

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
- (2) Suspension of rules.
- (3) Honoring resolutions.
- (4) Early Public Comment. This subsection (4) shall not apply after October 1, 2008.
- (5) Petitions and communications.
- (6) Modification of prior Common Council proceedings (upon request of a Common Council member).
- (7) Presentation of consent agenda as special order at 6:45 p.m.
- (8) Public hearings as special order at 6:45 p.m.
- (9) Informational hearings as special order immediately following public hearings.
- (10) Business presented by the Mayor, including appointments and confirmations.
- (11) Business presented by the President of the Common Council.
- (12) 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) Ordinances and resolutions referred to this meeting and not included in Item 12.
- (14) Introduction of new ordinances and resolutions for referral without debate.
- (15) Presentation of accounts and other claims against the City of Madison.
- (16) 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.”

III. Procedure for Voting

A. Ayes & Noes

Sec. 62.11(3)(d), Wis. Stats., provides that any member of the Council may require the “ayes and noes.” The section stipulates that “on confirmation and on the adoption of any measure assessing or levying taxes, appropriating or distributing money, or creating any liability or charge against the city or any fund thereof, the vote shall be by ayes and noes. All aye and no votes shall be recorded in the journal.”

Under Sec. 2.16, MGO, “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.” Roll call votes of the Council are made under Sec. 2.17, MGO, in alphabetical order on a rotating basis.

B. Majority Vote

Except for a number of measures listed below, Council action is determined by a simple majority of all the members, or eleven (11) votes. Sec. 62.11(3)b), Wis. Stats., and Sec. 2.18, MGO.

- Ties:

In case of a tie vote, the Mayor’s vote shall be counted in determining whether a sufficient number of the council has voted favorably or unfavorably on any measure. Sec. 62.11(1), Wis. Stats.

C. Effect of Council Action

Acts of the Council are in force when the Mayor approves the Council minutes. They are also in force if the Mayor takes no action within five (5) days. Sec. 62.09(8)(c), Wis. Stats., except that an ordinance is in effect after publication. See Sec. 1.04, MGO. Another exception to this is contained in the statutes governing annexation. Under Sec. 66.0217(8)(c), Wis. Stats. annexation ordinances are effective upon enactment.

D. Mayor’s Veto Power

Sec. 62.09(8)(c), Wis. Stats., also provides that the Mayor “shall have the veto power as to all acts of the council, except such as to which it is expressly or by necessary implication otherwise provided.” If the Mayor disapproves the action within five (5) days, s/he is to file objections with the Clerk. The Clerk shall present them to the Council at its next meeting. A three-fourths vote (15 votes) of all the members of the Council shall then make the act effective notwithstanding the objections of the Mayor. An example of a measure which is expressly exempted from the Mayor’s veto power concerns “direct legislation.” (See page 24.)

E. Extraordinary Majorities

Measures for which a vote margin greater than a majority is required include a wide range of issues. Certain action can require two-thirds (14 votes), three-fourths (15 votes) or four-fifths (16 votes) of all members or they can require some fraction of members

present. For example, Sec. 66.0101(2), Wis. Stats., provides that a two-thirds (2/3) vote of the members is required for approval by the Council of a charter ordinance (an ordinance which changes the City Charter). Similar provisions, dealing with fiscal, procedural and other matters, can be found in both Wisconsin Statutes and Madison General Ordinances. A comprehensive list of all such statutory references is not feasible here, but a number of these, together with relevant ordinances, are grouped below according to the size of vote required for action:

Statute or Ordinance Subject	Subject
Four-fifths of membership (16 votes)	
Sec. 62.22(4)(d) Wis. Stats.	Resolutions, without petition, to condemn land for opening or change of street or alley.
Sec. 4.16(4), MGO	Use of interest or income earned on reserve fund.
Sec. 4.16(5), MGO	Expenditure of reserve fund, or any part thereof.
Three-fourths of membership (15 votes)	
Sec. 62.15(1), Wis. Stats.	Provide that public construction or a part thereof be done by the City, instead of by public works contractors.
Sec. 66.0227(2), Wis. Stats.	Detachment and annexation of territory by petition of detachment.
Sec. 2.19, MGO	Appropriations made or voted from any city fund for any purpose.
Sec. 2.25, MGO	Immediate consideration of resolutions providing for the appropriation of funds.
Sec. 4.03, MGO	Appropriations from contingent fund.
Sec. 17.12(1)(d), Wis. Stats.	Removal by the Council of one of its members.
Two-thirds of membership (14 votes)	
Sec. 62.08(4), Wis. Stats.	Change aldermanic district boundaries to equalize population or change the number of Council members and aldermanic districts.
Sec. 62.09(1)(a), Wis. Stats.	Provide for two alderpersons from each aldermanic district. This also requires a referendum.
Sec. 62.09(1)(b), Wis. Stats.	Dispense with offices of Street Commissioner, Engineer, Comptroller, Constable and Board of Public Works and provide that duties thereof be performed by other officers and boards.

Statute or Ordinance Subject	Subject
Sec. 62.09(5)(c), Wis. Stats.	Provide for a division of alderpersons into two classes, one class to be elected for two years and the other for four years, and thereafter the term of alderperson to be for four years.
Sec. 62.09(8)(c), Wis. Stats.	Override mayoral veto.
Sec. 62.14(1), Wis. Stats.	Determine alternative membership for the board of Public Works and method of selection to Board, or decide not to have a Board of Public Works.
Sec. 62.15(5), Wis. Stats.	Reject bids for public construction when Council feels bids are fraudulent, collusive, excessive or against best interests of city, and order the work done by the City directly.
Sec. 62.26(7), Wis. Stats.	Change name of city.
Sec. 65.90(5)(a), Wis. Stats.	Alter budget, including amounts and purpose of appropriations and amount of tax levy, except those made pursuant to a hearing under Sec. 65.90.
Sec. 66.0101(9)(a), Wis. Stats.	Submit question of holding Charter convention to electors.
Sec. 66.0217(8)(a), Wis. Stats.	Annexation of territory to city.
Sec. 66.1303(4), Wis. Stats.	Approve urban redevelopment plan.
Sec. 66.1303(5), Wis. Stats.	Approve Amendments to urban redevelopment plan.
Sec. 2.04, MGO	Suspend order of business.
Sec. 2.34, MGO	Suspend or modify rules of order.
Sec. 3.30, MGO	Allow non-resident to sit on committee.
Sec. 3.53(3)(d), MGO	Remove member of Personnel Board.
Sec. 4.16(1), MGO	Direct monies or securities from any source to be paid into reserve fund.
Sec. 28.12(10)(i), MGO	On appeal, to reverse or modify the action of the Plan Commission on an application for Conditional Use Permit.
Three-fourths of members voting	
Sec. 28.12(10)(g), MGO	Rezoning, if a verified petition in opposition has been filed.
Two-thirds of members present	
Sec. 9.21(4)(g), MGO	Grant auto junk or salvage license.
Sec. 2.13(2), MGO	Permit member to speak more than once or more than ten (10) minutes on any one question.

F. Abstention From Voting (See Code of Ethics.)

If the Council member finds that she/he would have a conflict of interest in voting on a particular item, the member should abstain. In that situation, the Council member should take no part in discussion or debate on the item and should not submit written information or argument related to that item.

Council members have a right to abstain from voting for other reasons, if they choose to do so. In this situation, where no conflict of interest or other ethical concern exists, the member may participate in discussion. In such an instance, it is advisable to explain the reason for the abstention.

G. Additional Sponsors of Resolutions and Ordinances

In order to streamline this aspect of Council meetings, it will be appreciated if Council members will add their sponsorship of agenda items as follows:

1. If the item appears on the agenda for anything other than action, such as referral or public hearing, sponsors can be added at any time OTHER THAN DURING THE COUNCIL MEETING, either by contacting the Clerk's Office or through the Council Office.
2. If an item is up for adoption under suspension of the rules, that is, the item is appearing for the first time at the Council meeting and is to be adopted that night, names can be added as sponsors at the meeting, although it would still be preferable to call the Clerk's Office or the Council Office prior to the meeting (upon review of the agenda, if possible) to be added as a sponsor.

IV. Guide To The Introduction and Flow of Council Business

A. Submitting Resolutions and Ordinances

1. Resolutions

- a. Are used to provide a formal expression of the will of the Council. They only govern the City, itself.
- b. Cannot be used to modify or change the application of an ordinance, unless the ordinance specifically provides for that. Cross v. Soderbeck, 94 Wis. 2d 331 (1980)
- c. May be proposed and drafted by alderpersons, the Mayor, department heads or city committees; however, the Mayor or one Alderperson must sponsor each Resolution submitted.
- d. Referrals to the appropriate committee or department (see Referrals) should be indicated by the person submitting the resolution. Lead referrals should be listed first.
- e. The City Comptroller must provide a fiscal note approval for any resolution. This must be done before it is submitted to the City Clerk's Office.

- f. The City Clerk will place it on the agenda of the Common Council meeting.
- g. The City Clerk will give the Resolution an identification number. Resolutions are not codified.

2. Ordinances

- a. Ordinances become part of municipal law. They govern all persons within the City. They may create penalties.
- b. Must be drafted by the City Attorney. Proposals for ordinances should be submitted directly to the Attorney's Office on the proper form. The City Attorney will route the ordinance to the City Clerk's Office.
- c. Referrals to the appropriate agency should be included when the ordinance is submitted to the City Attorney.
- d. The City Comptroller will prepare a fiscal note. This must be done before it is submitted to the City Clerk's Office.
- e. An adopted ordinance takes effect on the day after it is published in The Capital Times, unless the ordinance itself contains a later effective date.
- f. Ordinances are codified as Madison General Ordinances. The code is revised by the City Attorney's Office approximately every three (3) months.
- g. The Madison General Ordinances are available on the City of Madison's website (www.cityofmadison.com). You will also find the ordinances on the website www.municode.com.

3. Deadlines

- a. Any business for referral must be submitted to the City Clerk by noon on the Wednesday of the week preceding the Council meeting for inclusion on the Council addendum.

B. The Agenda

The City Clerk receives all items to be included in the agenda and prepares it according to the Order of Business set forth in Sec. 2.04, MGO (see page 15).

C. Referrals and Reports

1. Making Referrals

- a. Referral agencies include departments, boards, commissions, public hearings.
- b. Referrals are indicated on the resolution or ordinance by the person proposing the legislation.
- c. Additional referrals can be added on the Council floor, by the Mayor or any alderperson and in writing directly to the clerk at the meeting. If an additional referral is added in writing, also notify the sponsors.
- d. An item can be referred to a later Council meeting of a specific date.

2. Referral Reports

- a. All referral reports must be given within 45 days of the meeting at which the item was introduced. Reports will be automatically put on the agenda even if they are not received by the City Clerk within this time limit.
- b. The Common Council may order the report for a specific date or that the referral be considered by a specific person.
- c. If there is more than one referral, reports must be forwarded to the lead referral agency. No agency, including the lead agency, may change another agency's report.
- d. The Common Council normally acts on the report of the referral unit, although an Alder may move a different related item.
 - i. The referral unit recommends that the item should be adopted, rereferred or placed on file.
 - ii. An Alderperson moves to adopt the report. If the report recommends adoption of an ordinance or resolution, the motion should specify adoption of the ordinance or resolution.
 - iii. Any alderperson may move that the report be adopted with separate consideration of any item.
 - iv. When all items for separate consideration have been identified, the Council votes to adopt the remaining parts of the report. Each item identified for separate consideration is then discussed and voted on.
- e. If the report includes a recommendation for action on an ordinance or resolution, action on the report constitutes action on the ordinance or resolution. The Council may also decide to refer the item again.
- f. If the report merely contains information, the Council may accept or receive the report. That action does not establish policy; it just constitutes a formal acknowledgment that the Council has received the report.

D. Public Participation at Council Meetings

1. Public Hearings.

Certain statutes and ordinances require a formal public hearing before action can be taken. Formal public hearings are taken up at 6:45 p.m. Council business is interrupted at this time.

All speakers are allowed to speak before any speakers are questioned by Council members. Each speaker may speak for five (5) minutes. See Secs. 2.30 and 2.40(6)(d), MGO.

A Council member may move that an item be referred to a public hearing at the next meeting or at some other specified later meeting.

2. Informational hearings.

These hearings are governed by Sec. 2.39, MGO. They may be scheduled by adoption of a motion. Speakers must follow the registration requirements in Secs. 2.29 and 2.40(6)(d), MGO. Speakers are limited to five (5) minutes each. Sec. 2.39 provides that action on the item that is the subject of an informational hearing must be deferred to a later meeting unless the rules are suspended. Informational hearings cannot be held on items for which a statute or ordinance requires a public hearing.

3. Sec. 2.29, MGO, provides that any person may address the Council on any item that is on the agenda for action. Speakers are limited to three (3) minutes. Speakers must comply with Sec. 2.40(6)(d), MGO.

E. Council Debate

Council members are not to speak more than twice on any one item, nor longer than ten (10) minutes at any one time. The following motions are used frequently:

1. To amend. It's debatable if the main motion is debatable. However, only two amendments may be pending at any one time. It's possible to amend by offering a substitute as long as the substitute is germane to the original legislation.
2. To refer. It's debatable and amendable.
3. To place on the table. This is neither debatable nor amendable.
4. To take from the table. This is neither debatable nor amendable. The motion must be made at the same meeting when the item was tabled or the next succeeding meeting. If not, the item is lost.
5. Previous question. This ends debate. It's not debatable nor amendable. It requires a 2/3 vote (14 votes).
6. To suspend the rules. This is not debatable nor amendable. The practice is to allow a Council member an opportunity to explain the purpose of suspension. It requires a 2/3 vote (14 votes) (Sec. 2.34, MGO).
7. To adjourn. It's not debatable nor amendable. It's in order at any time (Sec. 2.10, MGO).
8. To recess to a time certain. It's debatable and amendable. It's used to set a special time for the Council meeting.

F. Suspension of the Rules:

1. The rules can be suspended by a 2/3 vote (14) at any time.
2. Suspension of the rules can be used to consider a particular item out of order; and
3. When a member moves a suspension of the rules s/he shall be required to state the particular standing rule to which his motion is addressed. The presiding officer shall then put the questions, "Is there any objection to the suspension of the rules in accordance with the motion?" An objection voiced to suspension of the rules by one member shall require a roll call on the motion for suspension. 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.

G. Reconsideration and Rescission

1. Under Sec. 2.21, MGO, an item that has been acted upon may be reconsidered at the same meeting, or at the next succeeding meeting. Only a Council member who voted with the winning side or recorded an excused absence may move for reconsideration.
2. If the motion for reconsideration fails, a new motion for reconsideration of the same item is not in order. If the motion for reconsideration is brought at the succeeding Council meeting, it must appear on the agenda, because of open meeting law requirements. If the motion for reconsideration is not on the agenda, it may be made and referred to the next meeting. It may not be acted upon.
3. Under Sec. 2.26, MGO, a motion to rescind a Council action can be considered only if notice was given at the preceding regular Council meeting. This notice has to be written and has to specify exactly what action the Council will be asked to take. Sec. 2.26, MGO, provides that, in emergencies, a motion to rescind an action can be taken up without this prior notice. The presiding officer decides whether an emergency exists. Open meeting law requirements still apply. When the written notice prescribed under Sec. 2.26 has not been given, the motion to rescind requires a two-thirds vote (14 votes).
4. After the Council action in question has been published, it may not be rescinded under this procedure.

V. Miscellaneous Information

A. Charter Ordinances

1. A charter ordinance is used when:
 - a. Amending, repealing or otherwise modifying an existing charter ordinance; or
 - b. A charter ordinance is required by statute; or
 - c. The Council elects not to be governed by a specific state law; or
 - d. A high degree of formality and permanence is desired.
2. Sec. 66.0101, Wis. Stats., governs charter ordinances.
 - a. Adoption requires a two-thirds (2/3) vote (14 votes).
 - b. The ordinance is not effective and remains filed in the Clerk's Office for 60 days after enactment.
 - c. It is subject to petition for referendum.
 - d. If there is no petition after 60 days, the charter ordinance is effective.

B. Direct Legislation

Sec. 9.20, Wis. Stats., permits a number of electors equal to at least 15 percent of the votes cast for governor at the last general election in their city to file a petition with the city clerk requesting the adoption of an attached proposed ordinance or resolution or its referral to a referendum. The Clerk checks the form and the signatures. The council must either pass the ordinance or resolution within 30 days of the City Clerk's final certification or else submit it as a referendum in the next spring or general election, as long as the next election is at least six weeks after the date of the Clerk's certification. If there are less than six weeks before the next election, the referendum is held at the next

election thereafter. The council, by a three-fourths vote of all members (15 votes), may order a special election for the referendum at any time prior to the next election, but not more than one such special election may be called in any six month period. Legislation adopted under this section is not subject to the veto power of the Mayor and may not be repealed or amended within two years of adoption except by vote of the electors. The council may submit a proposition to repeal or amend the ordinance or resolution at any election. A majority vote by the electorate is required for any legislation to take effect under this section.

C. Public Record Requirement

Secs. 19.31-19.39, Wis. Stats., and Sec. 3.70, MGO, require “authorities” to permit inspection and copying of “public records.” A Council member is an “authority.” All but a very few of the documents received by Council members are “public records.” The City Attorney or any Assistant City Attorney will be available to answer questions about the public records statute.

D. Ethics

Code of Ethics: Members of the Common Council and of City boards, committees and commissions are subject to the code of ethics contained in Sec. 19.59, Wis. Stats., and to the City’s Code of Ethics contained in Sec. 3.35, MGO. They are also subject to Sec. 946.13, Wis. Stats., and other criminal statutes related to conflict of interest. Council members are encouraged to telephone the City Attorney whenever they have questions about ethics requirements.