

CHAPTER 4

FINANCE

Section

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4.01 CITY COMPTROLLER.

- (1) Position Established. The office of City Comptroller is hereby established as a department of the City's structure.
- (2) City Comptroller. The office shall be managed and directed by the City Comptroller who shall perform the duties of Comptroller as provided in Sec. 62.09(10) of the Wisconsin Statutes and as provided in these ordinances. Effective March 1, 1989, the position of City Comptroller as it becomes vacant shall be filled according to Sec. 3.54(6)(f) of these ordinances. The incumbent of the position as of the above date may enter into an employment contract as described in such section at his or her option. The City Comptroller shall, upon being appointed, take an oath of office to perform faithfully and impartially the duties of his/her office and shall execute a fidelity bond to the City of twenty thousand dollars (\$20,000), to be approved by the Mayor, conditioned upon the faithful performance of the duties of his/her office. (Am. by Ord. 9745, 3-30-89)

- (3) Functions. The City Comptroller shall see to the proper operation of the Accounting Division, the Purchasing Division, the Clerical Pool, the Risk Management Division, the Budget System, the Word Processing Center and Madison City Channel. (Am. by Ord. 11,764, 1-3-97)
- (4) Accountability. The City Comptroller shall report to the Board of Estimates and the Common Council on the financial status and policies of the City and to the Mayor on day-to-day operations and administrative matters.
- (5) Duties of the Comptroller.
 - (a) The City Comptroller shall have custody and control of all financial books and records of the City except as otherwise expressly provided, and shall keep suitable books of accounts and records in which shall be entered all financial transactions of the City.
 - (b) All accounts, demands, or claims presented to the City for payment shall be upon forms prescribed by the City Comptroller and furnished by the City, and no account, demand or claim shall be received by the City or any of its officers unless the same shall be made out upon such form.
 - (c) It shall be the duty of each head of departments, divisions, offices, boards, or commissions to file with the City Comptroller a notice of any contract or agreement entered into on behalf of the City, of the sale of any supplies, articles, or materials, for any service performed or the levy of any special assessment. They shall file with the City Comptroller a notice giving the date of commencement and completion of any work or improvement whether done under contract or otherwise. It shall be the duty of the City Comptroller to cause the same to be entered and made a matter of record.
 - (d) All resolutions, agreements, and contracts requiring the expenditure of money, before being presented to the Mayor for his approval, shall be submitted to the City Comptroller who shall endorse thereon a statement showing the availability of funds or otherwise, as the case may be.
 - (e) The City Comptroller shall direct all accounting, statistical, auditing, and other activities relating to the management of the City's fiscal affairs; shall contribute to City of Madison fiscal planning and control goals by providing financial statements, analytical reports, cost studies, performance standards, budgetary controls, and related management information to ascertain, help maintain, and continually improve the City's financial position; and shall meet monthly with the Board of Estimates to report on and discuss the financial affairs of the City.
 - (f) The City Comptroller shall develop and recommend a budget program that includes both long-range capital budgeting and the annual operating of capital budgets under the direction of the Mayor, Board of Estimates, and Common Council.
 - (g) The City Comptroller shall plan, develop and recommend procedures and practices to be observed in the issuance of bonds and promissory notes. He/she shall see to the preparation of required borrowing documents and shall decide the timing of the borrowing. He/she shall review borrowing priorities with the Mayor.
 - (h) The City Comptroller shall perform such other duties as may be required by the Mayor or Common Council.

- (6) Responsibilities of the City Comptroller.
- (a) The City Comptroller shall keep abreast of current economic, financial, and municipal finance trends and interpret such information and developments as a guide to current and long-range planning with respect to his activities.
 - (b) The City Comptroller shall review and analyze the operations of other municipalities, as pertains to his/her objectives, and make appropriate applications or recommendations resulting therefrom.
 - (c) The City Comptroller shall review and analyze the operations of local, special district, county, state, and federal taxing agencies and aid programs as they may pertain to the financial affairs of the City and shall submit recommendations relating thereto.
 - (d) The City Comptroller shall prepare or review all program applications for participation in county, state, and federal programs and necessary subsequent reports relating thereto.
 - (e) The City Comptroller shall plan, develop, and recommend insurance programs for the adequate protection of the City's properties and funds and with reference to exposure to liabilities on the part of the City as they may arise in the light of all foreseeable contingencies.
 - (f) The City Comptroller shall see to it that all employees under his supervision are thoroughly trained in the responsibilities of their respective positions.
 - (g) The City Comptroller shall coordinate with the Planning and Community and Economic Development and Public Works Directors in the analysis of the physical development effects of all capital budget requests or projections. He/she shall receive recommendations and reports from the City Plan Commission and the Board of Public Works relating to this responsibility.
 - (h) The City Comptroller shall maintain frequent contacts with the heads of other departments, divisions, offices, and semi-autonomous City agencies on mutual problems, interchanges of information, interdepartmental matters, accounting services, procedures, and budget problems.

(Sec. 3.77 R. & Re-Cr. as Sec. 4.01 by Ord. 9146, 3-30-87)

4.02 BUDGET SYSTEM.

- (1) Sections 65.02, 65.03, and 65.04 of the Wisconsin Statutes Adopted. The provisions of Sections 65.02, 65.03 and 65.04 of the Wisconsin Statutes except subsection (8) of Section 65.04 and subsection (1) of Section 65.03 relating to the budget system are hereby adopted for the City of Madison and shall be in full force and effect as ordinances of said City as if fully set forth herein, except that the Board of Estimates shall consist of the Mayor and six alders, to be selected as set forth in Section 4.02(4) of this ordinance, and except that the Board of Estimates shall make and submit the proposed budget to the Common Council on or before November 15 of each year. The Mayor shall be the chairman of the Board of Estimates. (Am. by Ord. 6033, 11-11-77; ORD-05-00167, 11-8-05; ORD-09-00147, 11-6-09)
- (2) Procedure. It shall be the duty of each department to file annually with the City Comptroller, on the date he shall specify and on forms provided by the him, an estimate in detail of the departmental needs for the ensuing fiscal year, including a statement of any permanent improvement to be made and an estimate of expenditures therefor, and including such information as the City Comptroller may direct. The City Comptroller shall review each departmental estimate and submit it and his recommendations thereon to the Mayor. Upon receipt of the departmental estimates with the recommendations of the City Comptroller, the Mayor shall review said estimates and recommendations and submit a proposed budget to the Board of Estimates for its consideration. (Am. by Ord. 8762, 12-31-85)
- (3) Audit.
- (a) The Board of Estimates shall provide a major audit program to the Common Council by the second meeting of the Common Council in February of each calendar year. The Common Council may direct additional audits of any organizational unit of City government to determine whether financial transactions have been made in a legal and proper way, to review program and performance accomplishments of the organizational unit or to determine whether the organizational unit carried out policies directed or approved by the Common Council. The Common Council shall designate which audits, if any, of any organizational unit are to be undertaken each year by the Internal Audit Section of the City Comptroller's office. Each organizational unit shall be audited on a random basis subject to budgetary constraints. The following audits are exempt from the requirement of prior Common Council approval:
1. Financial audits performed with a pledge of confidentiality on a random basis.
 2. Auditor investigations of defalcations, impropriety that may lead to discipline or criminal charges.
 3. Audits that in the opinion of the Comptroller would be jeopardized by general prior knowledge of the audit.
- (b) The City Comptroller or her/his designee and the staff of the Internal Audit Section shall have full access to any books, records, notes, memoranda or other documents maintained by any organizational unit relating to its expenditures, revenues, structure, operations, instructions to employees, and any rule, policy or regulation relating to its operation whether oral or written and to all of the employees, appointees, volunteers, subcontractors, subgrantees and any person directly associated with the conduct or operation of the organization unit during regular business hours or at other times as may be mutually agreed. The organizational unit's business-related documents of any kind may be reviewed during business hours with or without advance notice to the head of the organizational unit. Failure of any of the above-listed persons associated with the organizational unit to cooperate fully with audit personnel or members of the Board of Estimates shall be ground for discipline or removal from office or service or service in the organizational unit, withdrawal of funding, termination of contract or other appropriate penalty.

- (c) The City Comptroller shall control and be responsible for the methodology and conduct of the audit. The City Comptroller may initiate other audits of organizational units in which the City has a direct or indirect pecuniary interest as he may deem necessary to protect the City's interests. The Internal Audit Section shall prepare a draft report of the results of the audit for review by the Board of Estimates and the audited organizational unit which review shall be limited to the correction of factual errors. The organizational unit may file a response to the report which response shall be a part of the final audit report. The City Comptroller shall prepare resolutions for presentation to the Common Council accepting the final audit report and directing the implementation of the recommendations made by the Internal Audit Section.
- (d) The Deputy Comptroller or her/his designee shall also provide staff services to the Board of Estimates to an extent not inconsistent with duties assigned the City Comptroller under Paragraph 3. hereof.
- (e) The Board of Estimates shall monitor the chronological progress of the audits directed by the Common Council, ensure the cooperation of the involved organizational unit in the conduct of the audit, review the draft audit report with the Internal Audit Section and involved organizational unit to ensure that the report is factually correct, establish with the involved organizational unit a timetable for compliance with and implementation of the recommendations for corrections of identified problem areas or improvement of operations in the unit as approved by the Common Council, monitor the activity of the unit for continued compliance and implementation and report the same or failure thereof to the unit's appointing authority. The Committee may review the audit conclusions with the Internal Audit Section but shall not change nor direct the changing of any such conclusions. The Committee may review the recommendations of the Internal Audit Section for correction of identified problem areas or improvement of operation in the organizational unit and may submit a separate section of its recommendations to the Common Council, in the event of disagreement with those of the Internal Audit Section, in its final report of the results of the audit made to the Common Council. The Committee shall be supplied with all final audit reports conducted pursuant to this section.
- (f) For purposes of this section, and unless the context requires otherwise, "Organizational Unit" shall mean any department, division, unit or subentity or agency thereof of City government, including but not limited to each board, commission, committee, ad hoc committee, examining board, public or quasi-public entity organized or authorized by the Common Council or which is funded in whole or in part by action of the Common Council, including the subgrantees or subcontractors thereof, the custodian or entity authorized to expend funds provided by the Common Council, all external facilities operations in which the City has a direct or indirect pecuniary interest.

(Sec. 4.02(3) Cr. by Ord. 10,678, Adopted 6-1-93)

- (4) Selection of Alderpersons Members of Board. The Board of Estimates shall consist of six (6) Alders, five (5) of whom shall be appointed by the Mayor, subject to confirmation by the Common Council. Once confirmed these members shall hold office for a term of two (2) years or until their successors are confirmed. The sixth member shall be the Common Council President serving ex officio but with power to vote. (Renumbered by Ord. 10,678, Adopted 6-1-93; Am. by ORD-09-00147, 11-6-09)
- (5) Intradepartmental Transfers. The expenditures within the departments for each of the various departmental activities and the objects for which such expenditures shall be made shall not exceed the amount or the sum specified or determined in such annual operating budget; provided that the City Comptroller is hereby authorized to approve intradepartmental transfer of any unencumbered balance. If such a transfer is between divisions of a department it must be approved by the Mayor as well. (Renumbered by Ord. 10,678, Adopted 6-1-93)
- (6) Capital Budget and Capital Improvement Program.
- (a) Capital Improvement Review Process. The Mayor or her/his designee shall consult with those members of staff the Mayor deems necessary, including the City Comptroller, the Director of Public Works and the Director of Planning and Community and Economic Development and the Mayor or her/his designee shall annually review each departmental capital improvement estimate. (Cr. by Ord. 9813, 7-7-89; Am. by ORD-08-00085, 8-01-08)
- (b) It shall be the duty of each department to file annually with the City Comptroller by the date he/she shall specify and on forms provided by the City Comptroller an estimate of its necessary capital improvements for the following six fiscal years and estimates of the costs thereof which the City Comptroller shall present to the Mayor or her/his designee. (Am. by Ord. 11,587, 5-21-96; Am. by ORD-08-00085, 8-01-08)
- (c) Capital Budget. Upon receipt of the departmental estimates of capital improvement, the Mayor shall review said capital improvement estimates and submit a proposed Capital Budget for the ensuing fiscal year to the Board of Estimates for their consideration. The Board shall consider these items and make a proposed Capital Budget. (Am. by Ord. 9813, 7-7-89; Am. by ORD-08-00085, 8-01-08)
1. The Capital Budget shall be a part of the Budget and shall be summarized in the Budget Summary and the same statutory and ordinance requirements as to publications, notice and hearing shall apply to the Capital Budget as are required for the general annual budget.
 2. The Capital Budget shall be considered part of the Capital Improvement Program, and adoption of the Capital Budget will constitute an appropriation of the items therein stated except those requiring the borrowing of money. The Capital Improvement Program adopted in previous years shall not be binding.

3. The Capital Budget shall contain proposed expenditures for land purchases and improvements in excess of three thousand dollars (\$3,000); all projects requiring the borrowing of money including, but not limited to construction or reconstruction of public utilities, streets, sidewalks, storm and sanitary drainage facilities; new construction and construction of buildings in excess of five thousand dollars (\$5,000); major alterations to buildings and facilities which are not routine repairs and which substantially enhance the value of a structure or change its use; the original equipment or motor vehicle purchases exceeding twenty thousand dollars (\$20,000) in cost and having a life expectancy of ten (10) years or more; such other capital outlays as the Mayor and Common Council shall designate.
- (d) Capital Improvement Program. It is the intent of this section that the Common Council shall, each year, adopt a statement of proposed expenditures for capital improvements for the following six fiscal years. This statement shall be adopted by resolution and be known as the Capital Improvement Program.
1. Upon receipt of the departmental estimates for the five years following the ensuing budget year, the Mayor shall review said capital improvement estimates and recommendations and submit a proposed Capital Improvement Program to the Board of Estimates for their consideration.
 2. The Board of Estimates shall review all information regarding expenditures and anticipated revenue, and shall submit to the Common Council, with the budget, a proposed Capital Improvement Program.
- (e) Referendum Procedure for Capital Projects.
1. Legislative Purpose. The legislative purpose of this ordinance is to provide to the people a means through referendum by which they may express their views and support of or opposition to major capital projects proposed to be undertaken by the City. The opportunity to directly influence the policy of the City through binding referendum with respect to the undertaking of major capital projects is found to be in the best interests of the City and its people.
 2. The following terms whenever used or referred to in this subsection shall for the purposes of this subsection be construed as follows:
 - a. Project shall mean and is to be identified as any line item designated by a separate fund number in the Capital Budget.
 - b. Estimated budget cost shall mean and is to be determined by the total funds to be expended on the project including future expenditures set forth in the seven-year projection for that project as it appears in the Capital Improvement Program.

- c. Referendum shall mean election proceedings pursuant to the Statutes which govern special elections in general, and consistent with elections held pursuant to Sec. 67.05(5), Wisconsin Statutes.
 - d. Petition shall mean a petition the preparation and form of which is consistent with the provisions of Sec. 8.15 of the Wisconsin Statutes.
3. Petition for Referendum. The Capital Budget and the individual projects therein shall be deemed approved upon its adoption by the Common Council unless within thirty (30) days of the recording of the adopted budget with the City Clerk there shall be filed in the office of the City Clerk a petition requesting the submission of the question of the approval of an individual project, the estimated budgeted cost of which exceeds 1.5 million dollars (\$1,500,000), to the electors. The petition shall be signed by electors numbering at least ten percent (10%) of the vote cast for governor in the City at the last general election, shall identify the project by the fund number and shall refer to only one project. If such petition is filed a binding referendum shall be held at the spring primary election on the question of the approval of the project; if there is no spring primary the referendum shall be held at the general spring election or at any special election called by the Common Council for this purpose.
 4. Amendment to the Capital Budget. An amendment to the Capital Budget during the fiscal year which creates a new project meeting the requirements of this ordinance will be subject to the petition and referendum process if within thirty (30) days after the recording of the amendment in the office of the City Clerk a petition is filed which meets the requirements set forth above. If such petition is filed a referendum election will be held at the next succeeding election provided that such election takes place not less than six (6) weeks from the date of the filing of the petition with the City Clerk. The Council may call a special election for the purpose of conducting the referendum.
 5. Limited Right to Referendum. The right to a referendum on a project is limited to the first year that funds are to be expended on that project. The failure to petition for a referendum in that year precludes a referendum in subsequent years even though the project appears and funds are to be expended pursuant to subsequent years Capital Budgets. Any modification, addition, amendment or alteration to a project or increase in cost of a project does not give rise to the right to a referendum hereunder even though said modification, addition, amendment or alteration or increase in cost results in an estimated budgeted cost in excess of 1.5 million dollars (\$1,500,000). Only one referendum will be held for any eligible project hereunder and neither a change nor its appearance in subsequent years Capital Budgets shall give rise to the right to a second referendum on any eligible project.
 6. Rejected Project. The results of any referendum shall be binding with respect to that project for the fiscal year in which the referendum election is held. A rejected project may be renewed in any future Capital Budget where it will if eligible hereunder be subject to the petition and referendum process as a new project.

7. Ordinance not Applicable to Following Projects. This ordinance and the right to petition for a referendum on any capital project hereunder shall not be applicable to the following programs and/or projects found in the budget:
 - a. Street maintenance program.
 - b. Assessable streets.
 - c. Sidewalks program.
 - d. Street reconstruction.
 - e. Sanitary sewers.
 - f. Storm sewers.
 - g. Assessable tree program.
 - h. Neighborhood parks.
 - i. Street lighting.
 - j. Heavy equipment.
8. Report on Issues Related to a Referendum Question. At least two (2) weeks prior to the day of a referendum election, the City Comptroller shall produce an objective report on the issues related to the referendum question. Such report shall include arguments both for and against the project submitted to referendum election and be made available to all registered voters. (Am. by Ord. 8762, 12-31-85)
9. Severability. In the event that any section of this ordinance shall be declared or judged by a court of competent jurisdiction to be invalid or unconstitutional such adjudication shall in no manner affect the other sections of this ordinance which shall be in full force and effect as if the said section or said sections were not originally a part thereof.
10. Effective Date. This subdivision and the right to a referendum hereunder shall take effect with and be applicable to the 1980 Capital Budget and the projects therein.

(Sec. 4.02(5) Renumbered to (6) by Ord. 10,678, Adopted 6-1-93)

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

4.04 SINKING FUND ACCOUNT.

- (1) The City Treasurer shall open and maintain in the bank or banks designated by the Council for the deposit of monies belonging to the City, an account to be designated as the Sinking Fund Account, in which shall be deposited and kept all monies derived from taxes levied and collected for the payment of bonds and interest thereon, and all monies required by Chapters 62 and 67 of the Wisconsin Statutes, to be placed in a sinking fund; and no money shall be paid out of or withdrawn from said account except for the express purpose of investment in the manner provided by law.
- (2) All bonds and securities in which money withdrawn from said account shall at any time be invested shall be obtained by the City Treasurer, and shall continue to remain a part of the sinking fund, and all interest accruing on monies, bonds, or other securities belonging to said fund shall be credited to the same and shall be deposited in the Sinking Fund Account.
- (3) If any particular bond issue shall have been retired and there shall thereafter remain in the sinking fund any money derived from interest on the proceeds of taxes levied and collected for the retirement of said bond issue, such money shall continue to be a part of the Sinking Fund Account and available for the purpose of retiring the bonds of any other issue that the Council shall determine.

4.05 RECEIVING OF MONIES--RECEIPT FOR SAME.

- (1) The City Treasurer shall not receive any money into the treasury from any source whatever except on account of taxes levied and collected during the fiscal year for which he may then be serving, without giving a receipt therefor in the manner herein specified.
- (2) Upon the payment of any money to the City Treasurer (except for taxes as hereinbefore provided), the City Treasurer shall make out a receipt in triplicate for the money so received by him. He shall file one of the copies thereof with the City Comptroller who shall thereupon charge the amount thereof of the Treasurer and credit the proper account with the same. The payment of the money to any receiving agent of the City or to the City Treasurer shall be safeguarded in such manner as the Common Council shall direct.
- (3) Electronic Payment Transaction Fee. The Treasurer may accept payment by credit card, debit card or any other electronic payment mechanism of a fee or tax that is required to be paid to the City. The Treasurer shall decide which fees and/or taxes may be paid by credit card, debit card or any other electronic payment mechanism and the manner in which the payments may be made. If the Treasurer permits the payment of a fee or tax by credit card, debit card or any other electronic payment mechanism, the Treasurer may charge a transaction fee for each transaction in an amount of not less than twenty-five cents (\$0.25) United States Currency. The electronic payment transaction fee shall be amended from time to time, without amendment of this ordinance, if an increased fee is approved as part of the City Budget. (Cr. by ORD-10-00034, 4-1-10)

4.06 APPROVAL AND PAYMENT OF CLAIMS.

- (1) Payment of claims other than tort claims may be made by the City Treasurer after the City Comptroller shall have audited and approved each such claim as a proper charge against the treasury and shall have endorsed his approval thereon after the following conditions have been complied with:
 - (a) That funds are available therefor pursuant to the budget approved by the governing body.
 - (b) That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission.
 - (c) That the item or service has been actually applied or rendered in conformity with such authorization.
 - (d) That the claim is just and valid pursuant to law.The City Comptroller or City Clerk may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.
- (2) The City Comptroller shall file with the Common Council monthly a list of the claims approved, showing the date paid, the name of the claimant, purpose and amount. (Am. by Ord. 8762, 12-31-85)
- (3) There shall be an annual detailed audit of the financial transactions and accounts of the City of Madison, which said audit shall be performed by public accountants licensed under the provisions of Wis. Stat. ch. 135.

4.07 TIME FOR PAYMENT OF TAXES; INTEREST; PENALTY.

- (1) All personal property taxes shall be paid on or before January 31. All real estate taxes and special assessments levied pursuant to Wis. Stat. § 62.21 and 66.0701 may be paid in two installments, the first installment to be paid on or before January 31 and the second installment on or before July 31 next succeeding, in accordance with the provisions of Wis. Stat. §74.11(2)(b). (Am. by Ord. 10,270, 6-14-91)
- (2) Overdue or delinquent real estate taxes, personal property taxes and special assessments are subject to an interest charge of one percent per month or fraction of a month.
- (3) Reserved for Future Use. (R. by ORD-10-00033, 4-1-10)
(Am. by Ord. 11,280, 7-3-95 and 7-17-95; Ord. 13,103, 7-6-02)

4.071 MODIFIED REVERSE MORTGAGE LOAN PROGRAM FOR PAYMENT OF REAL ESTATE TAXES.

- (1) Legislative Finding. The Common Council of the City of Madison hereby finds, in the interest of public health, safety and welfare, that the payment of real estate property taxes for property on which certain elderly owners reside could be considered a severe personal financial hardship. This loan program is intended to address that public need, subject to the limit of an annual budget appropriation.
- (2) For the purpose of this ordinance, an eligible property owner shall be defined as any owner or owners who meet all of the following criteria:
 - (a) An owner who is 65 years of age or older and who owns and resides on a single-family property located within the City of Madison upon which property all or a portion of the real estate property taxes are due and payable.
 - (b) An owner who has a verified annual gross income equal to or less than the low income family limits for Madison, Wisconsin, published annually by the United States Department of Housing and Urban Development.
 - (c) An owner who has less than thirty thousand dollars (\$30,000) in liquid assets. Liquid assets are defined as cash, marketable securities (stocks, bonds, treasury bills, notes and commercial paper), savings bonds, savings accounts, checking accounts, and the cash surrender value of life insurance policies.
 - (d) The cumulative amount disbursed under this section, plus accrued interest and other loans secured by the subject property does not exceed seventy (70) percent of the assessed value of the property as determined by the City Assessor. The City Comptroller may require a letter report from a title company prior to disbursement, but this cost may be included in the maximum loan amount disbursed.
 - (e) An owner who certifies to the City Comptroller the payment of the real estate taxes or any installment of the real estate taxes is a severe personal financial hardship, and certifies to the above criteria.
- (3) The property owner shall sign a mortgage note and real estate mortgage in favor of the City of Madison at the time of closing, whereupon the mortgage will be recorded in the Office of the Dane County Register of Deeds. The recording fee is the responsibility of the owner, but may also be included in the loan amount disbursed. The owner may also apply for loan advances for subsequent real estate taxes and, in the event such additional application(s) are approved, shall only sign a new mortgage note in a consolidated amount that includes all principal amounts advanced and any unpaid accrued interest. Upon signing of the loan documents, the City Comptroller will draw a check payable to the property owner and the City of Madison or Dane County. The property owner is responsible for paying the real estate taxes or installment thereof for which the loan is advanced.
- (4) The interest rate for loans hereunder shall be equal to the City's cost of general obligation borrowing plus one percent. The interest for such loans shall be paid as specified on the mortgage note. Interest may be accrued and paid in its entirety at the time the loan is repaid.
- (5) The owner of such property, his, her or their heirs, personal representatives or assigns may repay such loan at any time, but, in any event, shall repay the loan, together with accrued interest, if any, prior to the subsequent sale or transfer of the property to such heirs or assigns, other than to a surviving spouse.
- (6) All applicants shall sign an affidavit attesting to income and liquid asset criteria. Any person who provides false or inaccurate information on the application shall upon conviction thereof forfeit not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500) and the entire amount of the loan, together with all accrued interest, shall be immediately due and payable.
- (7) This is a Charter Ordinance and shall be effective sixty (60) days after passage and publication, subject, however, to the referendum procedures in Wis. Stat. § 66.0101(5).

4.08 SPECIAL ASSESSMENTS--PAYMENT IN INSTALLMENTS.

- (1) Whenever any special assessments shall be levied to defray the cost of any public improvement, such special assessments may be paid in annual installments of not more than fifteen (15) in number for major improvements nor more than eight (8) for sidewalk repair and installation of street lights and street tree as determined by the Common Council. However, the number of installments may not exceed ten (10) if the special assessments are made pursuant to Sec. 16.23(9) of these ordinances. (Am. by Ord. 8748, 12-31-85; ORD-06-00115, 8-22-06)
- (2) The first installment shall include a proportionate part of the principal of the special assessment determined by the number of installments, together with interest at the rate of in effect at the time the assessment is levied. The interest rate for each calendar year shall be determined by the City Comptroller at the beginning of each year using the cost of the prior year general obligation borrowing (%) plus one percent (1%) for administration rounded up to the next highest one-half percent (0.5%). Said interest rate shall be computed from the date the assessment is billed through the next succeeding October 31, and each subsequent installment shall include a like proportion of the principal and twelve (12) months interest upon the unpaid portion of such assessment. (Am. by Ord. 9452, 4-15-88; ORD-06-00115, 8-22-06)
- (3) The first installment shall be entered in the first tax roll prepared after said installments shall have been determined as a special tax on the property upon which the special assessment was levied, and thereafter this tax shall be treated in all respects as any other municipal tax. One of the subsequent installments shall be entered in a like manner and with like effect in each of the annual tax rolls thereafter until all are levied.
- (4) If any installment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes it shall be returned to the county as delinquent and accepted and collected by the county in the same manner as delinquent general taxes on real estate.

4.081 DEFERRED ASSESSMENTS.

- (1) The Common Council of the City of Madison has made the following findings:
 - (a) In the interest of the public health, welfare and safety, it is often necessary to construct certain public improvements in areas which are undeveloped or outside the territorial limits of the City.
 - (b) The Council also recognizes certain public improvements may have to be constructed adjacent to property which has been designated a landmark by the City or is adjacent to and could be considered to be ancillary to a landmark. It may also find that the proposed public improvements would be of benefit to the property on which the landmark is sited or the property that is adjacent to and could be considered to be ancillary to the landmark only if the property was further improved or subdivided.
 - (c) The Council may find that a property located within the City, less than ten (10) acres in size, with its front and back sides fronting on different streets (not a corner lot), would only be able to have access or connection to the proposed public improvement if the property was further developed or subdivided.
(Am. by Ord. 6122, 2-7-78)
- (2) The Common Council may defer the due date of any special assessment levied against property abutting on or benefited by a public improvement, which abutting property meets one of the following criteria:
 - (a) Is zoned or used for agriculture;
 - (b) Lies outside the City limits;
 - (c) Lies within an Employment District, as defined at page 2-95 of the adopted City of Madison Comprehensive Plan (January 2006), in which the City is installing all or part of the necessary infrastructure, and the Common Council finds that deferral of the assessments will facilitate the development of the new Employment District;
 - (d) The property has been designated a landmark by the City or is adjacent to, and could be considered to be ancillary to, a landmark; or,

- (e) The property meets all of the following requirements:
1. Is equal to or less than ten (10) acres in size;
 2. The front and back side of the property both have frontage along a public street;
 3. The property does not take access to the street being assessed or will not be using the improvement until further subdivision or development; and,
 4. Further subdivision or development of the property is reasonably possible such that the lot, or any portion thereof, could access the street or utilize the improvements being assessed.

(Am. by Ord. 6122, 2-7-78)

- (3) If the Common Council defers the due date of a special assessment levied against property abutting on or benefited by a public improvement, the following shall apply:

- (a) An annual interest charge on the total deferred assessment shall be added to the total assessment for each year of deferment. The interest rate shall be the rate in effect at the time the assessment was levied and deferred. This interest rate shall be determined as set forth in Sec. 4.08(2), MGO.
- (b) A deferred special assessment must be paid within 10 years of the date of the resolution making the levy, unless the Common Council permits additional time by allowing payment of the assessment in installments, in which case the assessment shall be paid within the time prescribed by the resolution permitting installment payments. If installment payments are authorized after the deferral period, said installment payments are subject to the requirements of this Section, and, to the extent not contrary to this Section, those of Section 4.08.
- (c) The deferral period plus any additional time following the deferral period shall not exceed eighteen (18) years, except if specifically authorized under an approved cooperative plan entered into by the City under Wis. Stat. § 66.0307.

(Am. by Ord. 7516, 9-17-81; ORD-06-00115, 8-22-06)

- (4) (a) Except as provided in Subdivision (b), all outstanding deferred assessments on the property, or the remaining balance if installments are being applied following the deferral period, shall be paid in full prior to the occurrence of any of the following actions:
1. The property is connected to the public improvements.
 2. The property takes access to a street for which the assessments were levied and deferred, and the property did not previously take access to the street.
 3. Improvements are made to the property that substantially changes the use of the property.
 4. An undeveloped property is developed.
 5. Non-agricultural related improvements are made to an agricultural property.
 6. The property is subdivided.
 7. The property is sold.
- (b) The requirements for full payment of all outstanding deferred assessments or installment payments of Subdivision (a) do not apply to the following:
1. The Common Council permits additional time for payment of the assessment due by allowing for payment of the remaining assessment in installments. If this occurs, the assessment shall be paid within the time prescribed by the resolution permitting installment payments.
 2. The owner of the parcel enters into an agreement with the City to pay the assessment plus accrued interest, plus future interest over a stipulated period of time, in equal installments of principal plus variable installments of interest as determined by the City.
 3. The Common Council permits collection of the proportional share of the total assessment due against the portion of the property subject to Subdivision (a), while allowing continued deferment or installment payments on the remaining portion of the property not otherwise subject to Subdivision (a).

- (5) Any special assessment deferred under this section shall be a lien against the property assessed from the date of the resolution making the levy.
- (6) Whenever the due date of a special assessment shall be deferred under this section the following note shall be added to the schedule of assessments or resolution: "In accordance with Madison General Ordinance 4.081, the assessment for parcel(s) _____ shall be deferred for _____ years with interest. Upon completion of the deferment period, payment shall be made with interest in _____ equal yearly installments. In the event of certain occurrences as outlined in Sec. 4.081(4), the assessments shall be paid in full prior to the end of the deferral period."

(Sec. 4.081 Am. by ORD-10-00023, 3-13-10)

4.082 QUALIFIED LOANS FOR PAYMENT OF SPECIAL ASSESSMENTS OR SPECIAL CHARGES.

- (1) Legislative Finding. The Common Council of the City of Madison hereby finds that, in the interest of public health, safety and welfare, it is often necessary to construct improvements in areas in which property owners reside for whom the payment of the special assessments for the improvements or special charges for services rendered could be considered as a severe personal financial hardship. This loan program is intended to address that public need.
- (2) For the purpose of this ordinance, an eligible property owner shall be defined as any owner or owners who meet all of the following criteria:
 - (a) An owner who owns and resides on a property located in the City of Madison within a special assessment improvement district and whose property has been specially assessed for said improvement or upon which a special charge has been imposed for current services rendered.
 - (b) An owner who has a verified annual gross income equal to or less than the low income family limits for Madison, Wisconsin, published annually by the United States Department of Housing and Urban Development.
 - (c) An owner who has less than thirty thousand dollars (\$30,000) in liquid assets. Liquid assets are defined as cash, marketable securities (stocks, bonds, treasury bills, notes and commercial paper), savings bonds, savings accounts, checking accounts, and the cash surrender value of life insurance policies.
 - (d) The cumulative amount disbursed under this section, plus accrued interest and other loans secured by the subject property does not exceed seventy (70) percent of the assessed value of the property as determined by the City Assessor. The City Comptroller may require a letter report from a title company prior to disbursement, but this cost may be included in the maximum loan amount disbursed.
 - (e) An owner who certifies to the City Comptroller the payment of the special charge or special assessment or any installment of the special assessment is a severe personal financial hardship, and certifies to the above criteria.
- (3) The property owner shall sign a mortgage note and real estate mortgage in favor of the City of Madison at the time of closing, whereupon the mortgage will be recorded in the Office of the Dane County Register of Deeds. The recording fee is the responsibility of the owner, but may also be included in the loan amount disbursed. Upon signing of the loan documents, the City Comptroller will draw a check payable to the property owner and the City of Madison. The property owner is responsible for paying the special assessments or special charges for which the loan is advanced.
- (4) The interest rate for loans hereunder shall be simple interest equal to the interest rate for payment of special assessments in installments which is in effect at the time the special assessments or special charges are levied, and shall be paid by either of the following methods. The owner shall elect the method of payment at the time the application for loan under this section is made.
 - (a) Interest may be accrued and paid in its entirety at the time the loan is repaid; or
 - (b) Interest may be paid annually until the loan is repaid.

- (5) The owner of such property, his, her or their heirs, personal representatives or assigns may repay such loan at any time, but, in any event, shall repay the loan, together with accrued interest, if any, prior to the subsequent sale or transfer of the property to such heirs or assigns, other than to a surviving spouse.
- (6) Until such time as the loan is repaid, the qualifications of said owner in accordance with the criteria enumerated in sub. (2)(a) through (d) above may be reviewed periodically by the Comptroller. In the event the owner no longer meets any one of the criteria, the Comptroller may determine whether all or any portion of the loan, together with accrued interest, shall be immediately due and payable.
- (7) All applicants shall sign an affidavit attesting to income and liquid asset criteria. Any person who provides false or inaccurate information on the application shall upon conviction thereof forfeit not less than one hundred dollars (\$100) and not less than five hundred dollars (\$500) and the entire amount of the loan, together with all accrued interest, shall be immediately due and payable.
- (8) This is a Charter Ordinance and shall be effective sixty (60) days after passage and publication, subject, however, to the referendum procedures in Sec. 66.0101(5), Wis. Stats.

(Sec. 4.082 Am. by Ord. 8436, 10-5-84; Ord. 12,543, 2-18-00; Rep. & Recr. by Charter Ord. 74, Adopted 9-4-01)

4.09 SPECIAL ASSESSMENTS FOR THE CONSTRUCTION OR RECONSTRUCTION OF SANITARY SEWERS, STORM SEWERS, AND STREET IMPROVEMENTS AND SPECIAL CHARGES FOR CURRENT SERVICES.

- (1) It shall be the policy of the City of Madison to protect the health, safety and property of its citizens and promote the general welfare through the installation, construction or reconstruction of public sanitary sewers and appurtenances; storm sewers and appurtenances; public streets including sidewalks, or transit or pedestrian malls, landscaping, street lights and associated amenities; major transportation structures such as highway interchanges, ramps, medians, traffic turn bays, overpasses, underpasses, segregated transportation corridors such as bike paths, pedestrian walkways, and bus lanes; and assessing all or a portion of the cost to benefiting properties. In doing so, the City of Madison recognizes that it has historically financed the cost of these needed public improvements by special assessments to benefited properties and that fairness and reasonableness dictates that when these improvements are constructed or reconstructed they should be financed in like fashion. The construction and reconstruction of sanitary sewers and appurtenances, streets including sidewalks constructed or reconstructed as a part of street improvements and related landscaping and amenities may be charged in whole or in part to the property benefited thereby in accordance with the provisions of Section 66.0701 of the Wisconsin Statutes, except that, the assessment for highways on or across town or city boundaries shall be in accordance with Section 66.0705, Wisconsin Statutes. (Am. by Ord. 10,374, Adopted 2-4-92)
- (2) The establishment of special assessments for the aforementioned improvements represents an exercise of the police power of the City of Madison.
- (3) Except for special charges for current services, prior to the exercise of any powers conferred by this Ordinance, the Common Council shall adopt a resolution declaring its intention to exercise such powers to construct or reconstruct public improvements. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid and direct the proper municipal officer or employee to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.
- (4) The report prepared by the designated municipal officer or employee shall consist of:
 - (a) Preliminary or final plans and specifications.
 - (b) An estimate of the entire cost of the proposed work or improvement.
 - (c) A schedule of proposed assessments, constituting an exercise of the police power of the City of Madison and a statement that the property against which the assessments are proposed is benefited.
- (5) A notice shall be published in the official newspaper stating that the designated municipal official or employee has prepared the required report and that the Board of Public Works will hold a public hearing on the installation and assessments. Such notice shall be published as a Class I notice, under Chapter 985, Wisconsin Statutes, and mailed to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after such publication and mailing.
- (6) The Board of Public Works shall hold a public hearing on the report submitted by the designated City official or employee, and at the conclusion of the public hearing, shall prepare a report to the Common Council which shall, at a minimum, consist of a recommendation on the report. In the alternative, the Board of Public Works is authorized to amend the report or recommend the Council place the report on file without public hearing, thus terminating this procedure.

- (7) A notice shall be published in the official newspaper stating that the Board of Public Works has prepared a report on the designated City official or employee's report and that the Common Council will hold a public hearing on the assessments. Such notice shall be published as a Class I notice, under Chapter 985, Wisconsin Statutes, in the official newspaper and a copy of such notice shall be mailed to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) and not more than forty (40) days after such publication and mailing.
- (8) The Common Council shall hold a public hearing on the assessments and after the hearing may approve, disapprove, modify, or rerefer the report to the Board of Public Works with such directions as it deems necessary. Upon adoption by the Common Council, the assessment shall be deemed authorized and made, and the date of adoption shall constitute the date of levy. Assessments so levied shall be a lien against the property from such date. A copy of the resolution adopted by the Common Council shall be mailed to every interested person whose post office box is known or can be ascertained with reasonable diligence.
- (9) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever any assessment is void or invalid for any reason, or whenever the Common Council shall determine to reconsider and reopen any assessment, it may, after giving the same notice as provided in Subsection (7) and after a public hearing, amend, cancel, or conform any such prior assessment.
- (10) If the cost of the project shall be less than the special assessment levied, the Council, without notice or hearing, shall reduce each special assessment proportionately and where any assessments have been paid, and the excess over cost shall be refunded to the property owner.
- (11) The Council may, without any notice or hearing, levy and assess the whole or any part of the aforementioned municipal improvements as a special assessment on the property specially benefited thereby or impose a special charge upon property for all or part of the cost of current services rendered whenever notice and hearing thereon is in writing waived by all owners of the property affected by such special assessment or special charge. (Am. by Ord. 12,542, 2-18-00)
- (12) The construction and repair of sidewalk which has not been made a part of street or highway improvement shall be assessed in accordance with Wis. Stat. § 66.0907.
- (13) Special charges for current services rendered may be imposed through the allocation of all or part of the cost to the property served. Such current services may include without limitation because of enumeration, subdivision service costs under Sec. 16.23(9)(e), unpaid public facilities impact fees imposed under Chapter 20, Madison General Ordinances, mall-concourse special maintenance, street sprinkling, oiling and tarring, sealcoating and dust control, repair of sidewalks, curbs or gutters, garbage and refuse disposal, street lighting and/or traffic signal operation and maintenance, financing of lead service replacement for those property owners which meet the criteria of Section 4.082, Madison General Ordinances, and tree care. The amount to be charged may include direct and indirect costs, including the resulting damages, if any, interest on City funds used in anticipation of the collection of the special charges, a reasonable charge for administrative staff services, any architectural, engineering and legal services costs, and any other item of direct or indirect cost reasonably attributed to the work or services rendered. The amount to be charged against all property for the work or services rendered may be apportioned among the individual parcels served. For street sprinkling, oiling and tarring, sealcoating and dust control, and repair of sidewalks, curbs or gutters, unless notice and hearing is waived in writing as provided above, a notice shall be published in the official newspaper that the Common Council will hold a public hearing regarding the establishment of special charges for current services. Such notice shall be published as a Class I notice under Wis. Stat. ch. 985, and a copy of the notice shall be mailed to every interested person whose post office box address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) and not more than forty (40) days after such publication and mailing. Such notice shall specify that on a certain date a hearing will be held by the Common Council as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard. For all other types

of special charges, no public hearing is required and notice shall be as provided on the billing of the special charge. Such special charges shall not be payable in installments. If not paid within the period prescribed on the billing, such delinquent special charges shall become a lien as provided in Wis. Stat. § 66.0627(4) as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against that property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such special charges. (Am. by Ord. 12,542, 2-18-00; Ord. 13,125, 8-28-02; ORD-06-00129, 9-21-06; ORD-09-00004, 1-24-09)

- (14) Any person against whose land a special assessment has been levied under this ordinance shall have the right to appeal therefrom in the manner prescribed in Wis. Stat. § 66.0703(12), within forty (40) days of the day of the final determination by the governing body.

(Section 4.09 R. and Recr. by Ord. 8112, 10-3-83)

4.10 BIWEEKLY PAYDAY FOR CITY EMPLOYEES.

- (1) All employees of the City of Madison, including members of the Police and Fire Department and employees of all other branches of City administration and government, where the expenditure of funds of such department is subject to the control of the Common Council, shall be paid biweekly on the Friday following the two weeks services completed and to be compensated for or on the preceding work day if said Friday falls on a holiday. As used in this subsection, a week is defined to be that period of time commencing on Sunday and terminating at midnight on the following Saturday. Under the above procedure for payment on a biweekly basis, the initial biweekly period shall commence on Monday, January 1, 1962, and terminate on Saturday at midnight, January 13, 1962. The City Comptroller is authorized to make all the necessary adjustments in changing from the semimonthly to the biweekly payday for City employees.
- (2) All department and division heads or in their absence or disability their designee shall file with the City Comptroller the payrolls required by subsection (1) above indicating thereon the number of days worked by each employee, the number of days of sick leave and vacation taken, the number of hours of overtime worked or compensatory time used, together with such other information as may be prescribed by the City Comptroller and the Human Resources Director. Failure to report overtime hours worked or the use of compensatory time off shall constitute just cause for discipline. In the absence or disability of the department or division head and the designee, the payroll shall be certified by the Mayor. (Am. by Ord. 10052, Adopted 6-19-90)

(Sec. 4.10 Am. by Ord. 8762, 12-31-85)

4.11 RESERVED FOR FUTURE USE. (R. by Ord. 7973, 3-25-83)

4.12 SALARIES OF MEMBERS OF POLICE AND FIRE DEPARTMENTS AUTOMATICALLY RAISED BEFORE RETIREMENT. The salary of each member of the Police and Fire Department of the City of Madison, with the exception of the Chiefs of the said departments, as the same may be fixed by the Common Council, less any emergency increase, shall be and the same is hereby automatically increased in the sum of twenty dollars (\$20) per month, beginning one month immediately preceding the retirement of such member on pension after twenty-two (22) years of service, provided that when such retirement shall be voluntary there shall be filed with the trustees of the Police and Fire Pension Fund at least two (2) months before the date of such retirement an application therefor. Provided, however, that if a member of the Police or Fire Department so retiring is receiving at the date of his retirement any emergency increases in addition to his base salary and the amount of said emergency increase is less than twenty dollars (\$20), said automatic increase shall only be paid to the extent of the difference between twenty dollars (\$20) and the amount of the emergency increase. If the amount of the emergency increase amounts to twenty dollars (\$20) or more, no automatic increase shall accrue or be paid.

- 4.13 FEES OF CITY CLERK.** The salary fixed by ordinance for the City Clerk shall be in full compensation for all services of any kind rendered by him for the City, and all fees paid to and received by the City Clerk shall be turned in to the treasury, except fees received as a member of the Board of Review.
- 4.14 LIABILITY OF THE CITY FOR ACTS OF AGENTS.** No agent of the City having authority to employ labor or to purchase materials, supplies or any other commodities, shall have authority to bind the City in any way or incur any indebtedness for which the City may become liable without first notifying the City Comptroller of such employment and having the record of appointment countersigned by the City Comptroller. Each such appointment or purchase order shall be drawn against a specific appropriation, the money for which shall be available in the City Treasury and not subject to any prior labor claims or material purchase orders at the time when such employment is negotiated or purchase order drawn and no bill or invoice shall be presented to the Common Council for allowance except when preceded by such notice of employment or purchase order. The City Comptroller shall keep a record of such employment and purchase orders and shall charge them against the proper appropriation. He shall notify the proper department of the exhaustion of any appropriation and shall require that all labor or purchases in such department be suspended until further appropriations are set aside for such purposes.
- 4.15 LIABILITY OF TREASURER FOR VIOLATION OF THIS CHAPTER.** Any City Treasurer who shall violate any of the provisions of this chapter which are applicable to said Treasurer shall be subject to a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for each such violation.
- 4.16 RESERVE FUND.**
- (1) There is hereby established in the City of Madison, a fund separate and distinct from every other fund, and designated as the Municipal Reserve Fund. The sources of said fund shall be such monies, or securities, from any source whatsoever, as the Common Council may, by resolution, by a two-thirds (2/3) vote from time to time direct to be paid into said fund.
 - (2) The City Comptroller shall keep a separate record, relating to such fund, including an accurate account of the transactions, investments, earnings and expenditures, and shall make a report annually, on or about the 15th day of January of each year, to the Common Council.
 - (3) The City Treasurer shall, from time to time, recommend to the Common Council the investment of said fund, or part thereof, as it accrues. Disbursements, investments, sale or transfer of any securities held in said fund shall be, by resolution of the Common Council, on checks or City orders, signed by the Mayor, the City Clerk and the City Treasurer. (Am. by Ord. 9192, 5-14-87; ORD-08-00092, 8-23-08)
 - (4) All interest or income earned by said fund on its investments shall, when it accrues, be added to said fund to augment the same for the purposes for which said fund is provided, unless otherwise provided by a four-fifths (4/5) vote of the Common Council.

- (5) Said municipal reserve fund, or any part thereof, may be expended for any municipal purpose with the consent of four-fifths (4/5) of the members-elect of the Common Council.
- (6) The City Treasurer shall keep all cash on hand, belonging to said reserve fund, in a separate account in one of the depositories in the City of Madison. The said City Treasurer shall also designate a suitable, safe depository, wherein the City Treasurer shall keep all bonds, or other securities, in which said fund shall be invested. (Am. by Ord. 9192, 5-14-87; ORD-08-00092, 8-23-08)

4.17 REFERENDUM ON BOND ISSUES IN EXCESS OF \$300,000. (Title Am. by Ord. 6643, 6-8-79)

- (1) The question of the approval of any initial resolution adopted by the Common Council of the City of Madison for an issue of bonds in excess of three hundred thousand dollars (\$300,000) for any one issue for purposes specifically enumerated in Wis. Stat. ch. 67, shall be submitted to the electors as provided in Wis. Stat. § 67.05. The question of the approval of an initial resolution adopted by the Common Council for an issue of bonds of three hundred thousand dollars (\$300,000) or less, for any one issue for purposes specifically enumerated in Wis. Stat. ch. 67, need not be submitted to the electors as provided in said subsection (5), Section 67.05, unless within thirty (30) days after the recording thereof there shall be filed in the office of the City Clerk a petition requesting such submission signed by electors numbering at least ten per cent (10%) of the votes cast for governor in the City at the last general election. If such petition be filed, proceedings shall be as provided by subsection (5), but the question of the approval of any such resolution may in the discretion of the Common Council by separate recorded resolution be submitted to popular vote without waiting for the filing of said petition. The ballot used at any such referendum election need not embody a copy of the resolution, but it shall contain a statement of the purpose and the amount of the bonds proposed to be issued.
- (2) (R. by Ord. 6643, 6-8-79)

4.18 PAYMENT OF TAX EQUIVALENT AND OCCUPANCY FEE ON CITY OWNED PARKING FACILITIES AND ON-STREET METERED PARKING SPACES.

- (1) In each calendar year, there shall be paid into the General Fund, as a payment in lieu of taxes, an amount equivalent to that which would be levied on the off-street land and improvements (except for parking stalls in the street right-of-way) operated as a Parking Utility by the City, based on the assessed valuations as determined by the City Assessor and the combination of the City mill rate as adopted by the Common Council in November and the most recent school district mill rate, less the State school tax credit.. This Subsection shall be effective January 1, 2005.
- (2) In addition to the amount in Sub. (1), the Parking Utility shall pay into the General Fund at the same time an amount representing an occupancy fee for use of the right-of-way and for related City services such as snow plowing, the occupancy fee to be 10% (ten percent) of the gross revenues for on-street metered parking stalls. This Subsection shall be effective January 1, 2006.

(Am. by ORD-06-00009, 2-2-06)

4.19 CONDEMNATION ASSESSMENT FREEZE. Not printed. Held unconstitutional.

4.20 LIVING WAGE.

- (1) Statement of Purpose. The City contracts with many persons to provide services to the public, and provides financial assistance to developers for the purpose of promoting economic development and job growth. Such public expenditures should be spent to set a community standard that permits workers to live above the poverty line. The Common Council finds that the use of City funds to promote the creation of living wage jobs will increase consumer income, decrease poverty, invigorate neighborhood businesses and reduce the need for taxpayer-funded social services programs. The purpose of this ordinance is to improve the quality of services to beneficiaries of City-contracted agencies and to assure that City employees, employees of City service contractors and subcontractors, and employees and contractors of recipients of City financial assistance earn an hourly wage that is sufficient to enable a family of four to live at or above the federal poverty level.
- (2) Definitions. In this section:
- (a) “City financial assistance” means any grant, cooperative agreement, loan, contract or any other arrangement by which the City provides or otherwise makes available assistance in an amount equal to \$100,000 or more in the form of:
1. Funds;
 2. Services of City personnel;
 3. Real and personal property or any interest in or use of such property, including:
 - a. Transfers or leases of such property for less than the fair market value, or for reduced consideration; and
 - b. Proceeds from a subsequent transfer or lease of such property if the City’s share of its fair market value is not returned to the City.
 4. The sale and lease of, and the permission to use (on other than a casual or transient basis) City property or any interest in such property, the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale, lease or furnishing of services to the recipient;
 5. “City financial assistance” includes, but is not limited to, capital revolving fund loans, redevelopment contracts, economic development agreements, revenue or loan agreements with an eligible participant or authorized developer under Sec. 66.521, Wis. Stats., contracts with developers or other entities authorized by Secs. 66.1333 (5) and 66.1105(3)(e), Wis. Stats.
 6. “City financial assistance” does not include public works contracts, supply procurement contracts, professional service contracts, contracts of insurance or guaranty, collective bargaining agreements, or contracts with nonprofit corporations, unless the nonprofit corporation passes City financial assistance in an amount equal to \$100,000 or more through to a for-profit entity, in which case the for-profit entity shall be subject to this ordinance.
- (b) “Employee” means any individual, except those excluded under Subsection (10), who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go to or work or be at any time in any place of employment. “Employee” includes individuals whose work is permanent or temporary, or on a full-time or part-time basis.
- (c) “Person” means any individual, partnership, joint venture, corporation, limited liability company or partnership, trust, association, or other entity that may employ individuals or enter into contracts.
- (d) “Professional service contract” means any contract in which the majority of employees engaged in the performance of the contract perform work which:
1. Is predominantly intellectual and varied in nature, as opposed to work which involves routine mental, manual, mechanical or physical labor; and

2. Requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.
 - (e) “Recipient of City financial assistance” means any person, including that person’s subcontractors, successors, assignees and transferees.
 - (f) “Service contract” means any contract with the City for the provision of services to any City department or agency with a budget under the control of the Common Council, which has a value exceeding \$5,000. “Service contract” does not include any contract which involves the purchase of goods or which is a professional service contract, public works contract under Sec. 62.15, Wis. Stats., or a contract with another unit of government.
 - (g) “Service contractor” means any person, including that person’s subcontractors, successors, assignees, or transferees.
- (3) Living Wage Requirement.
- (a) All employees employed in work performed as part of a service contract, employed as City of Madison employees, employed in work performed under a contract funded by City financial assistance, employed by a contractor of a City financial assistance recipient and who expends at least twenty hours a week at the project site funded by City financial assistance, or employed by a recipient of City financial assistance in work performed at a project site funded by City financial assistance shall receive and be paid a City minimum hourly wage. The City minimum hourly wage shall be \$7.91 through December 31, 1999. Thereafter, the City minimum hourly wage shall be calculated as follows:
 1. Effective January 1, 2000 and continuing for the remainder of 2000, an hourly rate equal to 105% of the poverty level divided by 2080.
 2. Effective January 1, 2001 and continuing thereafter, an hourly rate equal to 110% of the poverty level divided by 2080.
 3. As used in this section, “poverty level” means an annual income equal to the U.S. Department of Health and Human Services’ then most recently published poverty guideline for a family of four.
 - (b) Compliance with this Section shall be required for the term of the contract between the City and the service contractor or recipient of City financial assistance.
 - (c) Tipped employees, employees paid on commission, employees who receive meals or lodging or both from their employers, and employees whose compensation consists of more than hourly wages shall be paid an hourly wage which, when combined with the other compensation, will at least equal the City minimum hourly wage. The value of such meals or lodging shall be calculated pursuant to Chapter DWD 272, Wis. Admin. Code.
 - (d) Each employee employed in the performance of a service contract or employed in work performed under a contract funded by City financial assistance shall receive the full living wage. If an employee is performing both City and non-City work and it is not possible to separately account for the time associated with work under the City contract, then the employee shall receive the full living wage. No proportional calculation is allowed. If no bids are received on a City service contract and staff determines that compliance with this subdivision contributed to the lack of bids, the contract may be rebid with a waiver of the no proportional calculation requirement. This subdivision shall be applicable to all service contracts which are first advertised or amended after the effective date of this subdivision (d) and to all contracts funded by City financial assistance which are executed or amended after the effective date of this subdivision (d).
(Created by ORD-07-00108, 9-22-07)
- (4) Maintenance of Effort. No service contractor or recipient of City financial assistance may use the living wage requirement of this section to reduce the wage paid to any person employed by the service contractor or recipient.

- (5) Provisions in Contracts. For purposes of carrying out the intent of this section, all provisions of this section are made part of all service contracts and contracts for the provision of City financial assistance. Every service contractor and recipient of City financial assistance shall bind its contractors and subcontractors in writing, as applicable, to the provisions of this section.
- (6) Contract Bid and Request-for-Proposal Specifications. A digest of the provisions of this section shall be included in all specifications for financial assistance projects and service contract work upon which the City calls for bids or issues requests for proposals.
- (7) Specifications for Contracts. No service contract and no contract between the City and a recipient of City financial assistance shall be entered into by the City unless such contract contains the following stipulation or its equivalent:
 “The contractor agrees to pay all employees employed by the contractor in the performance of this contract, whether on a full-time or part-time basis, a base wage of not less than the City minimum hourly wage as required by Section 4.20, Madison General Ordinances.”
- (8) Posting of Wage Rate. For every service contract and for every contract between the City and a recipient of City financial assistance the minimum hourly wage required by Subsec. (3) and the phone number of the City’s Affirmative Action Department shall be kept posted by the contractor or recipient at the site of the work in a prominent place where it can be easily seen and read by persons employed in the performance of such contract. In addition, copies of the living wage requirement shall be supplied to any person employed by a recipient or employed in the performance of a service contract at the request of such person and within a reasonable period of time after the request.
- (9) Enforcement.
 Any person who has been found by the City to have submitted any false, misleading or fraudulent information, or to have failed to comply with the provisions of this section, may be subject to any of the following sanctions, imposed by the City:
1. Withholding of payments under the contract;
 2. Termination, suspension or cancellation of the contract in whole or in part.
 3. After a due process hearing, denial of the right of the person to bid on future City contracts, by herself or himself, partner or agent, or by a corporation of which she or he is a member, for a period of one year after the first violation is found and for a period of three years after a second violation is found.
- (10) Exclusions. This section shall not apply to student learners, on-call employees, employees under the age of 18, or employees of sheltered workshops, as those terms are defined in Ch. 104, Wis. Stats., to City Special Workers as defined in Section 3.54(2)(b), Madison General Ordinances, or to laborers, workers or mechanics subject to either Section 4.23, Madison General Ordinances or to 40 U.S.C. 276a. (Am. by Ord. 12,594, 6-6-00)
- (11) Collective Bargaining Agreements. This ordinance may be superseded and made inapplicable, in whole or in part, by an expressed declaration to such effect in any signed collective bargaining agreement between a service contractor or a recipient of City financial assistance and a labor organization.
- (12) Applicability. The provisions of this section shall apply to:
- (a) A service contract or contract for the provision of City financial assistance consummated after the effective date of this ordinance;
 - (b) A service contract amendment consummated after the effective date of this ordinance which itself meets the requirements of this section;
 - (c) Supplemental financial assistance provided after the effective date of this ordinance which itself meets the requirements of this section.
- (13) Penalty. In addition to the sanctions set forth in Subsection (9) above, any person, contractor, subcontractor, or recipient who violates this section or fails to comply with any of its requirements shall, upon conviction hereof, be subject to a forfeiture of not less than one dollar (\$1.00) and not more than two hundred dollars (\$200), and in addition shall pay all costs and expenses. Each day such violation continues shall be considered a separate offense.

(Sec. 4.20 Cr. by Ord. 12,363, 3-30-99)

4.21 ROOM TAX.

- (1) In this section:
 - (a) “Hotel” or “motel” means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations, including mobile homes as defined in Sec. 66.0435(1)(d), rented for a continuous period of more than one month and accommodations furnished by any hospital, sanatoriums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual. (Am. by Ord. 11,240, 4-28-95)
 - (b) “Gross receipts” has the meaning as defined in Wisconsin Statutes, Section 77.51(4)(a), (b) and (c) insofar as applicable. (Am. by Ord. 11,240, 4-28-95)
 - (c) “Transient” means any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodations available to the public.
- (2) Pursuant to Wisconsin Statutes, Section 66.0615, a tax is hereby imposed on the privilege and service of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Beginning January 1, 2007, such tax shall be at the rate of nine percent (9%) of the gross receipts from such retail furnishing of rooms or lodgings. The proceeds thereof shall be subject to annual appropriation by the Common Council. Such tax shall not be subject to the selective sales tax imposed by Wis. Stats. Section 77.52(2)(a)1. and may not be imposed on sales to the federal government and persons listed under Sec. 77.54(9a), Wis. Stats. (Am. by Ord. 11,503, 1-5-96; Ord. 12,311, 1-26-99; ORD-06-00159, 11-21-06)
- (3) Collection of Tax. This section shall be administered by the City Treasurer. The tax imposed for the months of January, February, and March, 1969, and for each calendar quarter thereafter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the City Treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the City Treasurer deems necessary. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the City Treasurer requires. Such annual returns shall be made on forms as prescribed by the City Treasurer. All such returns shall be signed by the person required to file a return or his duly authorized agent, but need not be verified by oath. The City Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date. (Am. by Ord. 7164, 12-17-80)

- (4) Every person furnishing rooms or lodging under Subsection (2) shall file with the City Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the City Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the City Treasurer requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application the applicant shall pay to the City Treasurer a fee of two dollars (\$2) for each permit.
- (5) After compliance with Subsection (4) and Subsection (14) by the applicant, the City Treasurer shall grant and issue to each applicant a separate permit for each place of business within the City. Such permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.
- (6) Whenever any person fails to comply with this section the City Treasurer may, upon ten (10) days notification and after affording such person the opportunity to show cause why his permit should not be revoked, revoke or suspend any or all of the permits held by such person. The City Treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The City Treasurer shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this section. A fee of two dollars (\$2) shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.
- (7) If any person liable for any amount of tax under this section sells out his business or stock of goods or quits the business, his successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount until the former owner produces a receipt from the City Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money. (Am. by ORD-06-00159, 11-21-06)
- (8) The City Treasurer may, by office audit, determine the tax required to be paid to the City or the refund due to any person under this section. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the City Treasurer's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.
- (9) The City Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the City Treasurer's possession. Whenever the City Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the City Treasurer is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the City Treasurer from making a determination of tax at any time. (Am. by Ord. 8895, 6-26-86)

- (10) If any person fails to file a return as required by this section, the City Treasurer shall make an estimate of the amount of the gross receipts under subsection (2). Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the City Treasurer's possession or may come into his possession. On the basis of this estimate the City Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at a penalty equal to ten per cent (10%) there-of. One or more such determinations may be made for one or more than one period.
- (11) A forfeiture of 25% of the room tax due for the previous year or \$5,000, whichever is less, of the tax imposed, is hereby established and due and owing in the event that the room tax is not paid within 30 days after the due date of return. In addition to this forfeiture, all unpaid taxes under this section shall bear interest at the rate of twelve per cent (12%) per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the City Treasurer. All refunded taxes shall bear interest at twelve per cent (12%) per annum from the due date of the return until the first day of the month following the month in which said taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the City Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a complete return it shall not allow any interest thereon. (Am. by Ord. 11,292, 7-11-95)
- (12) Delinquent tax returns shall be subject to a twenty-five dollar (\$25) late filing fee. The tax imposed by this section shall become delinquent if not paid by the due date of the return. (Am. by Ord. 8895, 6-26-86)
- (13) If a person files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this section, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties. (Am. by Ord. 8895, 6-26-86)
- (14) In order to protect the revenue of the City, the City Treasurer may require any person liable for the tax imposed by this section to place with him or her, before or after a permit is issued, such security, not in excess of five thousand dollars (\$5,000) as the City Treasurer determines. If any taxpayer fails or refuses to place such security, the City Treasurer may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the City Treasurer may, upon ten (10) days notice, recover the taxes, interest and penalties from the security placed with the City Treasurer by such taxpayer. No interest shall be paid or allowed by the City to any person for the deposit of such security. (Am. by Ord. 11,240, 4-28-95)
- (15) Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the City Treasurer requires.

- (16) All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the City Treasurer are deemed to be confidential, except the City Treasurer may divulge their contents to the following, and no others:
- (a) The person who filed the return.
 - (b) Officers, agents, or employees of the Federal Internal Revenue Service or the State Department of Revenue.
 - (c) Officers, employees, or agents of the City Comptroller. (Am. by Ord. 8762, 12-31-85)
 - (d) Such other public officials of the City of Madison, when deemed necessary.
- (17) No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided in subsection (16).
- (18) Any person who is subject to the tax imposed by this section who fails to obtain a permit as required in subsection (4), or who fails or refuses to permit the inspection of his records by the City Treasurer after such inspection has been duly requested by the City Treasurer, or who fails to file a return as provided in this section, or who violates any other provisions of this section, shall be subject to a forfeiture not to exceed two hundred fifty dollars (\$250). Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed 5% of the tax imposed by this section. (Am. by Ord. 8895, 6-26-86)

4.22 THE MADISON AFFORDABLE HOUSING TRUST FUND.

(1) Creation; Purpose and Intent.

There is hereby created and established for the City of Madison a fund to be known and denominated as the Madison Affordable Housing Trust Fund. The Trust Fund shall be a continually renewable source of revenue to meet, in part, the housing needs of low income households in the City, as defined in (2)(b) below. The Trust Fund is to provide loans and grants to for-profit and non-profit housing developers for the acquisition, capital and soft costs necessary for the creation, repair and preservation of Affordable rental and owner-occupied housing. Preference shall be given to those projects that ensure that the Assisted Units remain Affordable for the longest period possible. Projects funded by the Trust Fund shall be disbursed throughout the City so no single neighborhood experiences a disproportionate concentration of housing units for low income households.

(2) Definitions.

In this section:

- (a) “Affordable” means a housing unit that has an Affordable Housing Cost.
- (b) “Affordable Housing Cost” means an amount satisfied by:
 1. for owner-occupied housing, a housing payment inclusive of loan principal, loan interest, property taxes, property and mortgage insurance, and homeowners association dues which allows a household, whose gross income adjusted for family size is at or below eighty percent (80%) of Area Median Income, to purchase a home;
 2. for rental housing, a housing payment, inclusive of a reasonable allowance for heating, which allows a household, whose gross income adjusted for family size is at or below sixty percent (60%) of Area Median Income, to rent a unit, while paying no more than thirty percent (30%) of their gross household income; and

3. for Housing Cooperatives and Limited Equity Cooperatives, a housing payment that allows a household whose gross income adjusted for family size is at or below sixty percent (60%) of Area Median Income, to purchase a home.
- (c) “Area Median Income” means the median income for the greater Madison area adjusted for family size, as published by the United States Department of Housing and Urban Development.
- (d) “Assisted Unit” means a housing unit that is Affordable and is assisted by the Trust Fund. Assisted Units shall be specifically identified in the deed restriction required under Sec. 4.22(7), M.G.O.
- (e) “Committee” means the City of Madison Community Development Block Grant Committee created pursuant to Sec. 33.15, M.G.O.
- (f) “Contingent Fund” means the fund created pursuant to Sec. 4.03, MGO.
- (g) “Director” means the City’s Community Development Division Director, or his or her designee.
- (h) “Housing Cooperative” means a corporation that exists to provide housing to its owners, who are the individuals who live in the cooperative.
- (i) “Limited Equity Cooperative” means a limited equity Housing Cooperative that limits the return allowed when its shares are sold.
- (j) “Recipient” means any for-profit or non-profit housing developer that receives funds in the form of a loan or a grant from the Trust Fund. A Recipient may be an individual, partnership, joint venture, limited liability company or partnership, association or corporation.
- (k) “Tax Incremental Financing Equity Participation Payment” means an equity payment received by the City from a developer pursuant to a TIF Development Agreement in which the tax incremental district has been dissolved.
- (l) “Trust Fund” means the Madison Affordable Housing Trust Fund.
- (3) Trust Fund; Sources of Trust Fund Moneys.
- (a) There is also hereby established a Madison Affordable Housing Trust Fund, to be maintained by the City Comptroller. All funds received by the City on behalf of the Trust Fund shall be deposited in the Trust Fund. Principal and interest from loan repayments, and all other income from Trust Fund activities, shall be deposited in the Trust Fund. All funds in the Trust Fund shall earn interest at least at the same rate as pooled investments managed by the City Treasurer. All interest earnings from the Trust Fund shall be reinvested and dedicated to the Trust Fund.
- (b) The Trust Fund shall consist of funds derived from the following:
1. Private cash contributions designated for the Trust Fund;
 2. Payments in lieu of participation in current or future affordable housing programs;
 3. Matching funds from a federal affordable housing trust fund;
 4. Principal and interest from Trust Fund loan repayments and all other income from Trust Fund activities;
 5. Any other appropriations as determined from time to time by legislative action of the Common Council, including, but not limited to, (i) Residual Contingent Reserve funds; (ii) Amounts from the Operating Budget equivalent to City fees collected from dedicated uses related to housing, such as reinspection fees; (iii) Tax Incremental Financing Equity Participation Payments; and (iv) Proceeds from the sale or use of surplus City land.

- (4) Committee's Powers and Duties.
- (a) The Committee shall have the following powers and duties:
 1. Recommend policies, goals and objectives for the Trust Fund program to the Mayor and the Common Council;
 2. Review project funding requests and recommend to the Mayor and the Common Council all disbursements from the Trust Fund;
 3. Investigate and recommend to the Mayor and Common Council additional sources of money for deposit to the Trust Fund; and
 4. Publish and distribute requests for proposals and notices of funding availability.
 - (b) All projects considered for funding will be reviewed prior to Committee action by the CDBG staff, and the Director shall submit to the Committee comments and recommendations.
 - (c) The Committee shall within ninety (90) days following the close of each fiscal year prepare and submit an annual report to the Common Council on the activities undertaken with funds from the Trust Fund. The report shall specify the number and types of units assisted, the amount loaned per Assisted Unit, the amount of state, federal and private funds leveraged, the geographic distribution of Assisted Units and a summary of statistical data relative to the incomes of assisted households, including their monthly rent or mortgage payments, and the sales prices of owner-occupied Assisted Units.
- (5) Evaluation of Applications.
- In evaluating requests for disbursements from the Trust Fund, the Committee and the Council shall give preference to developments:
- (a) that leverage other public and private sources of funds;
 - (b) that seek loans from the Trust Fund, rather than grants, which will allow the Trust Fund to grow over time;
 - (c) that will tie up funds from the Trust Fund for shorter periods of time, rather than longer, which will allow the Trust Fund to be used to support a greater number of projects throughout the City;
 - (d) that are targeted to a mixture of household incomes, where Assisted Units are distributed throughout the building or development so as to avoid a disproportionate concentration in any one area;
 - (e) that ensure that the Assisted Units remain Affordable for the longest period possible;
 - (f) that lead to lower, long-term utility costs for occupants of Assisted Units;
 - (g) that meet the highest accessibility standards, as defined by federal, state and local requirements; and
 - (h) that are consistent with the Committee's framework and any other similar policy statements adopted by the Committee from time to time.
- (6) Trust Fund Distributions.
- The Trust Fund shall fund loans and grants in accordance with this Section, to assist Recipients in the creation, repair and preservation of Affordable Units. The Trust Fund program shall be administered by the Director. No disbursements shall be made from the Trust Fund without the prior recommendation of the Committee and authorization by the Common Council, subject to the following.
- (a) The total disbursements from the Trust Fund in any calendar year shall be limited to fifty percent (50%) of the balance of the Trust Fund as of the prior January 1st.
 - (b) At least sixty percent (60%) of the funds eligible for disbursement annually shall be used to create, repair and preserve Affordable Units for households whose gross income, adjusted for family size, is at or below sixty percent (60%) of Area Median Income.

- (c) At least fifty percent (50%) of funds eligible for disbursement annually shall be reserved for commitments to nonprofit corporations until September 1st, after which these reserved funds may be disbursed to any Recipient.
 - (d) The total disbursements from the Trust Fund for any one project shall be limited to twenty-five percent (25%) of the balance of the Trust Fund as of January 1st of the year prior to the disbursement.
 - (e) Recipients may use the funds directly or through an affiliated entity to pay for:
 1. capital costs, including but not limited to the actual costs of rehabilitating or constructing Affordable Units;
 2. preserving Affordable Units;
 3. demolishing or converting existing non-residential buildings to create new Affordable Units;
 4. real property acquisition costs;
 5. accessibility modifications;
 6. modifications for health, safety and energy conservation purposes; and
 7. professional service costs, including but not limited to, those costs incurred for architectural, engineering, planning and legal services which are attributable to the creation, repair and preservation of Affordable Units, provided that no more than fifteen percent (15%) of the total funds allocated to the project from the Trust Fund may be used for such costs.
 - (f) Trust Fund moneys may not be used for operating expenses of any program, provided, however, that up to fifty percent (50%) of the interest income earned by the Trust Fund in the prior calendar year may be disbursed in the form of grants to be used by Recipients to pay for operating expenses of programs that provide direct assistance to buyers or renters, including, but not limited to, security deposit loan programs, private mortgage insurance guarantee programs, and homebuyer down payment assistance programs.
 - (g) No Recipient may refuse to lease or otherwise make unavailable any rental Assisted Units solely because an applicant for housing is a direct recipient of a federal, state or local governmental housing subsidy.
- (7) Term of Affordability.
 To ensure long term affordability, Assisted Units shall be deed restricted for at least thirty (30) years as follows:
- (a) Owner-occupied Assisted Units shall be available only to households whose gross income, adjusted for family size, is at or below eighty percent (80%) of Area Median Income.
 - (b) Rental Assisted Units shall be available only to households whose gross income, adjusted for family size, is at or below sixty percent (60%) of Area Median Income.
- (Sec. 4.22 Cr. by Ord. 13,476, 12-23-03; Rep. & Rec. by ORD-10-00086, 9-15-10)

4.23 **PREVAILING WAGE ON BUILDING OR WORK FINANCED IN WHOLE OR IN PART WITH CITY FINANCIAL ASSISTANCE.**

- (1) Purpose and Intent. It is the policy of the City to assure equitable wages for all building or work which is financed in whole or in part with City financial assistance. The Common Council finds that extending prevailing wages to workers employed on such projects preserves and promotes the public health, safety, prosperity, and general welfare of the people of the City of Madison.
- (2) On any projects for which the City contributes financial assistance and which are “public works,” “building or work,” or “erection, construction, remodeling, repairing” as those terms are defined in Sec. 23.01(1)(a) of these ordinances and such work is performed by “employees working on the project” or “laborers, workers, and mechanics” as those terms are defined in Sec. 23.01(1)(a), all employees shall be compensated at the rates established pursuant to Sec. 23.01(1) of these ordinances, Wis. Stat. § 66.0903, and Wis. Admin. Code § DWD 290 as therein provided. In the event of a difference in the required rates or provisions, the higher wage or more stringent provision established by the City or the State shall be required.
- (3) “City financial assistance” means any grant, cooperative agreement, loan, contract (other than a public works contract, a supply procurement contract, a contract of insurance or guaranty or a collective bargaining agreement) or any other arrangement by which the City provides or otherwise makes available assistance, in the form of
 - (a) Funds.
 - (b) Services of City personnel.
 - (c) Real and personal property or any interest in or use of such property, including:
 1. Transfers or leases of such property for less than the fair market value, or for reduced consideration; and
 2. Proceeds from a subsequent transfer or lease of such property if the City’s share of its fair market value is not returned to the City.
 - (d) The sale and lease of, and the permission to use (on other than a casual or transient basis) City property or any interest in such property, the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale, lease or furnishing of services to the recipient, and
 - (e) Any City agreement, arrangement or other contract which has as one of its purposes the provision of financial assistance, including purchase of service agreements.
 - (f) “City financial assistance” includes, but is not limited to, redevelopment contracts, economic development agreements, revenue or loan agreements with an eligible participant or authorized developer under Wis. Stat. § 66.1103, contracts with developers or other entities authorized by Wis. Stat. § 66.1333(5) and 66.1105(3), and assistance provided under Wis. Stat. § 66.1109.
- (4) All contracts or agreements for such projects shall include the following provision:

Prevailing Wages. The Contractor shall pay its employees the wage rates established by Sec. 4.23, Madison General Ordinances, and its referenced sections and shall require in its contracts and subcontracts for work on the project, adherence by those contractors, subcontractors and agents to the wage rates established by this Section 4.23 and its referenced sections. The contractor and its contractors, subcontractors and agents shall also adhere to the requirements of Madison General Ordinances Sec. 23.01(1)(d) “Payrolls and Records,” Sec. 23.01(1)(j) “Evidence of Compliance by Contractor,” and Sec. 23.01(1)(k) “Evidence of Compliance by Agent and Subcontractor” with the exception that the reference to “City Engineer” and “Department of Public Works” shall be to the City agency administering the project.

(5) Exceptions.

- (a) This ordinance does not apply to work or contracts which are governed by Sec. 23.01 of these ordinances.
- (b) This ordinance does not apply to wages of student learners or employees of licensed sheltered workshops, as those terms are defined in Wis. Stat. ch. 104.
- (c) This ordinance does not apply to any construction or rehabilitation project which involves fewer than eight residential units and which does not include commercial space.
- (d) This ordinance does not apply to projects funded in whole or in part by federal funds.

(Sec. 4.23 Cr. by Ord. 11,895, 7-14-97)

4.24 RETURNED PAYMENT CHARGES. There may be a processing charge of twenty-five dollars (\$25) for any check, order, or electronic payment issued to the City or any department or utility thereof and returned unpaid by a financial institution due to insufficient funds or due to any other reason. Such charges shall be paid into the City Treasury and credited to the General Fund. (Cr. by Ord. 13,541, 3-17-04)

4.25 PROCUREMENT OF ITEMS OF APPAREL.

- (1) Purpose. The City of Madison recognizes a public interest in avoiding purchasing from vendors and contractors who obtain goods that originate in sweatshops – places of work where the labor practices are inconsistent with international standards of human rights – and declares the City’s intent to avoid such purchases and allocate its funds in a manner that enhances the rights and well-being of workers world-wide, while acquiring the best quality goods at reasonable cost.

The Common Council finds that contractors can have influence throughout their entire supply chain, and therefore have an obligation to workers in subcontractor and subsidiary factories in addition to their direct obligations to their own employees. The Common Council further finds that the apparel industry is one area where the City can have an impact on the rights and well-being of workers world-wide.

The purpose of this ordinance is to ensure that City procurement of apparel is made from responsible contractors and vendors who agree to adhere to the minimum employment standards required herein and to require their subcontractors and third-party suppliers to do the same, so that all employees involved in the City’s procurement may be afforded the opportunity to a fair, humane work environment as described herein.

The Common Council finds the following labor practices inconsistent with international standards of human rights:

- a. below-subsistence wages;
- b. excessively long working hours;
- c. unhealthy and unsafe working environments;
- d. child, indentured, and forced labor;
- e. disregard for local and international labor laws and workplace regulations;
- f. disregard for fundamental women’s rights;
- g. repression of workers’ rights to assemble and bargain collectively.

- (2) Applicability – Apparel. This ordinance shall apply to all City procurement of apparel totaling \$5,000 or more. For purposes of this ordinance, “procurement” shall include the purchase, rental, lease, laundering or dry cleaning of apparel, whether by contract, purchase order, or other means; and allowance and voucher programs for city employees to make their own purchases, except where a city collective bargaining agreement establishes a clothing allowance or voucher program, in which case the terms of the collective bargaining agreement shall control. This ordinance shall also apply to contracts for the provision of City financial assistance, if \$5,000 or more of will be used for procurement of apparel.

(3) Definitions

- (a) “Apparel” means all garments or items of clothing any part of which is a textile produced by weaving, knitting or felting; and all shoes and other footwear.

- (b) “Contractor” or “vendor” means a person or entity from whom the City has a current procurement relationship as that term is used in sub (2) above, or who is bidding or proposing to provide apparel to the City under a procurement arrangement.
 - (c) “Employee” means any individual who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go to or work or be at any time in any place of employment. “Employee” includes individuals whose work is permanent or temporary, or on a full-time or part-time basis.
 - (d) A “fair wage” is the total ‘take home’ or ‘net’ wage, earned during a country’s legal maximum work week, but not more than 48 hours. A fair wage provides for the basic needs (housing, energy, nutrition, clothing, health care, education, potable water, childcare, transportation and savings) of an average family unit of employees in the manufacturing employment sector of the country divided by the average number of adult wage earners in the family unit of employees in the manufacturing employment sector of the country.
 - (e) “Subcontractor” means a person, partnership, corporation or other entity that enters into a contract with a contractor or vendor for performance of some or all of the City-contracted work. For purposes of this ordinance, “subcontractor” shall include all third-party suppliers or producers from whom the contractor or its contractors obtains or sources goods, parts or supplies for use on the city contract and is intended to include suppliers at all level of the supply chain.
- (4) Employment Standards for Contractors and Vendors.

- (a) Domestic Or Foreign Manufacturers, Presumption. It is presumed that all contractors, subcontractors, third-party suppliers and other entities involved in the production of goods under city contracts at locations within the United States are subject to and will follow all applicable federal, state and local laws such as labor, employment, and safety laws. While this ordinance is applicable to procurement of apparel from all sources, the standards in subsection (4) are intended primarily for subcontractors and suppliers located outside the United States where the applicable law or practices does not already provide the protections necessary to accomplish the goals of this Ordinance. Nothing in this Ordinance shall be construed to limit or reduce the responsibility of contractors located within the United States to follow applicable law in their jurisdiction.
- (b) Standards. Contractors shall adhere to or exceed the following minimum employment standards, and shall require all subcontractors, as defined in sub. (3)(e), to do the same. Wherever the word “contractor” is used below, the same requirement shall apply to subcontractors as defined in sub. (3)(e).

These standards shall apply in all phases/aspects of the contractor’s or their subcontractor’s operations, including but not limited to, manufacture, assembly, finishing, laundering or dry cleaning, (where applicable), warehouse distribution, and delivery:

1. Wages and Benefits. Contractors should recognize that wages are essential to meeting employees’ basic needs. Contractors shall pay employees, at minimum, wages and benefits which comply with all applicable laws and regulations, and which provide for essential needs and establish a dignified fair wage for workers and their families. This must always meet or exceed any applicable minimum wage, or other “fair wage,” “living wage” or other law that requires a wage that exceeds the applicable minimum wage, whichever is higher.
2. Working Hours. Hourly and/or quota-based wage employees shall not be required to work more than 48 hours per week or the limits on regular hours allowed by the law of the country of manufacture, whichever is lower, and be entitled to at least one (1) day off in every seven (7) day period, as well as holidays and vacations off.

3. Overtime Compensation. All overtime hours must be worked voluntarily by employees. In addition to their compensation for regular hours of work, hourly and/or quota-based wage employees shall be compensated for overtime hours at such a premium rate as is legally required in the country of manufacture or, in those locations where such laws do not exist, at a rate at least one and one-half their regular hourly compensation rate.
4. Child Labor. Contractors shall not employ any person at an age younger than 15 (or 14, where, consistent with International Labor Organization practices for developing locations, the law of the country of manufacture allows such exception). Contractors and sub-contractors agree to consult with governmental, human rights, and nongovernmental organizations, and to take reasonable steps as evaluated by the City and any independent monitoring agency acting on behalf of the City, to minimize the negative impact on children released from employment as a result of implementation or enforcement of the Ordinance.
5. Forced Labor. There shall not be any use of prison labor, indentured labor, bonded labor or other forced labor.
6. Health and Safety. Contractors shall provide a safe and healthy working environment to prevent employee accidents and injury to health arising out of or occurring in the course of employment or as a result of the operation of their facilities. In addition, contractors shall ensure that all operations comply with all workplace safety and health regulations established by the national government where the production facility is located, or with Title 29 CFR of the Federal Code of Regulations, enforced by Federal OSHA (Occupational Safety and Health Administration), whichever regulation is more strict.

The contractor shall ensure that its operations comply with all health and safety conventions of the International Labor Organization (ILO) ratified and adopted by the country in which the production facility is located.
7. Nondiscrimination: No person shall be subject to any discrimination in employment; including but not limited to hiring, employment, recruitment or recruitment advertising, salary rates of pay or other forms of compensation, benefits, advancement, transfer, selection for training including apprenticeships, discipline, demotion, termination or retirement; on the basis of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, or student status as those terms are defined in Section 39.03; and any other basis as may be added by amendment to Sec. 39.02(9)(b) and/or 39.03.
8. Harassment or Abuse. Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological, or verbal harassment or abuse. Contractors will not use or tolerate any form of corporal punishment.
9. Freedom of Association and Collective Bargaining. Contractors shall recognize and respect the right of employees to freedom of association and collective bargaining. No employee shall be subject to harassment, intimidation or retaliation as a result of their efforts to freely associate or bargain collectively. Contractors and sub-contractors shall not cooperate utilize corrupt with governmental agencies and other organizations that

use the power of the State to prevent workers from organizing a union of their choice. Contractors shall allow union organizers free access to employees and shall recognize the union of the employees' choice. In addition to respecting the right of employees to freedom of association and collective bargaining, contractors must source from factories where the above commitment has been demonstrated as exemplified by the following:

- a. There exist clear channels through which workers can voice their complaints regarding working conditions and such complaints are addressed in a prompt and effective manner;
- b. The workers have a representative voice in workplace decisions;
- c. Management negotiates with the workers in good faith.

11. Women's Rights

Women workers will receive equal remuneration, including benefits; equal treatment; equal evaluation of the quality of their work; and equal opportunity to fill all positions open to male workers.

Pregnancy tests will not be a condition of employment, nor will they be demanded of employees.

Workers who take maternity leave will not face dismissal nor threat of dismissal, loss of seniority or deduction of wages, and will be able to return to their former employment at the same rate of pay and benefits.

Workers will not be forced or pressured to use contraception.

Workers will not be exposed to hazards, including glues and solvents, that may endanger their safety, including their reproductive health.

Contractors and sub-contractors shall provide appropriate services and accommodation to women workers in connection with pregnancy.

- (c) Effect of Applicable Local Law: Contractor (and any subcontractors or third party suppliers) must comply with all applicable laws and regulations of the jurisdiction where it is located. Where there is a conflict between this Ordinance and the local laws or regulations, the more strict restriction shall apply. However, where the law conflicts with this Ordinance to the extent that the local law is less strict than the minimum standards stated herein, or where adherence to this ordinance would result in a violation of the law of the country or jurisdiction in question, contractors will be deemed in compliance on an existing contract if they take effective actions as determined by the City and/or any monitoring entity acting on behalf of the City, to achieve full compliance with this ordinance to the extent reasonable, considering the applicable laws. See sub. (7)(c)5. regarding nonrenewal when compliance is deemed impossible.

- (d) Contractors shall refrain from any actions that would diminish the protections afforded by this Ordinance.

(5) Bid Specifications and Pre-Award Procedures.

- (a) Contract Bid and Request-for-Proposal Specifications. A copy of this Ordinance or a sufficient summary and link to the entire text shall be included in all specifications for all contracts or requests for financial assistance to which this ordinance may apply.

- (b) Bidder Disclosure Statements. The City shall require for each bid or proposal to which this ordinance applies under sub. (2), each bidder, proposer or potential contractor to submit disclosure statements that include the information below, to the city and/or the city's independent monitoring agency, if any, with the knowledge that this information may be disclosed to the public, subject to applicable public records law. If the pre-award disclosure reveals a violation of this ordinance or a statement that the proposed contractor will not or cannot comply with this ordinance, the City reserves the right not to award the contract to that contractor. The disclosures shall include:

1. The names, addresses, and phone numbers of each facility involved in the production of goods covered by this policy.
 2. The names, business addresses, and phone numbers of the principal officers of each facility involved in the production of goods covered by this policy.
 3. The base hourly wage of non-supervisory production employees, percent of wage level paid as health benefit, other benefits, regular deductions from paychecks, normal working hours per day and week, actual working hours per day and week over the last three months, and overtime policy.
 4. The raw number of each type good produced in a given factory for the City.
 5. A sworn statement that each of the proposed production facilities, including any sub-contractors, complies with all requirements of this ordinance.
 6. Any other information deemed necessary by the City for the administration and enforcement of this Ordinance.
- (c) Transparency. Bidders, proposers and contractors shall provide access to the City of Madison and the City's independent monitoring agency, if any, to archived and contemporary inspection and monitoring reports for all facilities producing goods for the contract in question and shall require their subcontractors to allow the same access.
- (6) Requirements for Contracts and other Procurement arrangements.
- (a) Mandatory Contract Language. No contract to which this Ordinance applies under Subsection (2) be entered into by the City unless such contract contains the following language:
- “The contractor shall follow labor practices consistent with international standards of human rights, meaning that, at a minimum contractor shall adhere to the minimum employment standards found in Section 4.25 of the Madison General Ordinances and shall require all subcontractors and third-party suppliers to do the same. For purposes of sec. 4.25, “Subcontractor” means a person, partnership, corporation or other entity that enters into a contract with the contractor for performance of some or all of the City-contracted work and includes all third-party suppliers or producers from whom the contractor or its contractors obtains or sources goods, parts or supplies for use on the city contract and is intended to include suppliers at all level of the supply chain. The standards in Sec. 4.25 shall apply in all aspects of the contractor's and subcontractor's operations, including but not limited to, manufacture, assembly, finishing, laundering or dry cleaning, (where applicable), warehouse distribution, and delivery. Contractor acknowledges that by entering into this contract, Contractor shall be subject to all of the requirements and sanctions of sec. 4.25 of the Madison General Ordinances.
- All applicable contracts must also include the list of sanctions in sub. (7)(c).
- (b) Inclusion by reference in all Contracts. For purposes of carrying out the intent of this ordinance, all provisions of this section are made part of all applicable contracts for procurement under this ordinance.
- (c) Every contractor and vendor shall bind its contractors and subcontractors, in writing, to the provisions of this Ordinance.
- (d) Continuing Disclosure and Transparency. All contractors operating under an existing contract applicable under sub (2), shall submit quarterly sworn disclosure statements containing the information required in sub. (6)(b), to the City or its independent monitoring agency, if any. Disclosures that reveal a violation of the ordinance or statement that contractor will not or cannot comply with this ordinance may be grounds for sanctions without further investigation, or may be investigated for action under this ordinance and the contract. The City and its independent monitoring organization, if any, shall have complete and unfettered access to all contractor's and subcontractor's facilities utilized under a contract to which this Ordinance applies. The transparency requirements in sub. (6) above shall continue to apply to contractors under an existing contract.

(7) Monitoring and Enforcement.

- (a) Complaints. Any person may complain that one or more standards of this ordinance are being violated. The City and/or any independent monitoring agency acting on behalf of the city shall receive complaints and investigate the merits of such complaints.
- (b) Independent Monitoring Agency. The City may choose to contract for investigation and monitoring services with a qualified, independent monitoring agency that is not financed by the industry to which this ordinance applies under subsection (2). The purpose of such arrangement would generally be to receive complaints and provide monitoring, inspection, investigation, and remediation services at locations that are too distant or impractical for the City to do itself. Any such services would be subject to the specific terms of any contract the City makes with the agency.
- (c) Violation, Remediation and Sanctions. If the City determines there has been a violation of this ordinance, appropriate city staff or the independent monitoring agency, if any, shall inform the contractor of the determination and discuss the violation with the contractor. The purpose of the discussion is to encourage the contractor to change its practices rather than to cease doing business with the contractor. To that end, the City may at its sole option prescribe appropriate measures for the contractor to take in order to comply with the Ordinance, however nothing in this subsection shall be construed to limit the city's remedies under an existing contract or other remedies available at equity or at law. The sanctions for violating the ordinance under an existing contract are as follows and this list of sanctions shall be included in every applicable contract:
1. Withholding of payments under an existing contract.
 2. Liquidated damages. The contractor may be charged liquidated damages on an existing contract of two thousand dollars (\$2,000) per violation, or an amount equaling twenty percent (20%) of the value of the apparel, garments or corresponding accessories, equipment, materials, or supplies that the City demonstrates were produced in violation of the contract and/or this ordinance per violation; whichever is greater.
 3. Termination, suspension or cancellation of a contract in whole or in part.
 4. Nonrenewal when a contract calls for optional renewals.
 5. Nonrenewal for lack of progress or impossible compliance. The City reserves the right to refuse to renew a contract that calls for optional renewals, when the contractor cannot comply with the minimum standard under (4)(b) and the noncompliance is taking place in a country where:
 - a. Progress toward implementation of the standards in this Ordinance is no longer being made; and
 - b. Compliance with the employment standards in the Ordinance is deemed impossible by the City and/or any independent monitoring agency acting on behalf of the City. Such determination shall be made in the sole opinion of the City and may be based upon examination of reports from governmental, human rights, labor and business organizations and after consultation with the relevant contractors and sub-contractors and any other evidence the City deems reliable.
 6. Disqualification of the contractor from bidding or submitting proposals on future City contracts, or from eligibility for future city procurements as defined in sub. (2), whether or not formal bidding or requests for proposals are used, for a period of one (1) year after the first violation is found and for a period of three (3) years after a second or subsequent violation is found. The disqualification shall apply to the contractor who committed the violation(s) whether that be under the same corporate name, or as an individual, or under the name of another corporation or business entity of which he or she is a member, partner, officer, or agent.

- (d) Submission of False Information. Any person who has been found by the City to have submitted any false, misleading or fraudulent information to the City or its independent monitoring agency (if any), either in their request for bids or proposals or other pre-award submissions; or during the term of the contract, may be subject to any of the above sanctions.
- (e) Penalty. In addition to any of the sanctions set forth elsewhere in this ordinance, any contractor or vendor or other person who violates any portion of this ordinance or fails to comply with any of its requirements shall, upon conviction hereof, be subject to a forfeiture of not less than one-hundred dollars (\$100) and not more than five hundred dollars (\$500), plus applicable costs. Each day such violation continues shall be considered a separate offense. Prosecution or imposition of a forfeiture under this paragraph shall not preclude imposition of other sanctions listed above, nor shall the imposition of such sanctions be construed as a limitation on prosecution.
- (f) Nothing in this ordinance shall be construed as a limit upon any remedies at law or equity that the city may have to enforce a contractual relationship or otherwise enforce this ordinance.
- (8) Severability. The provisions of this ordinance shall be severable and if any of the provisions shall be held in contravention of the Constitution and laws of the State of Wisconsin or of the United States by a court of competent jurisdiction, the validity of the rest of the ordinance shall not be affected. It is hereby declared to be the intent of this ordinance that the same would have been adopted had such unconstitutional or unlawful provision, if any, not been included herein.
- (9) Committee on Sweatfree Purchases.
 - (a) Purpose, Duties, Responsibilities. There is hereby created a Committee on Sweatfree Purchases, for the purpose of ongoing evaluation and assistance in the application of this ordinance and the furtherance of its purpose. On an annual basis, this committee shall provide the Common Council with a report describing any suggested recommendations regarding the ordinance, including the feasibility of expanding the ordinance beyond its original application to apparel only as described in subsection (2). This committee is also encouraged to communicate with other units of government to encourage similar policies to further increase the effectiveness of this ordinance in achieving its policy goals.
 - (b) Composition and Appointment of Members. The Ad Hoc Task Force on Sweatfree Purchases shall consist of five (5) voting members and one (1) alternate member. Membership shall include one (1) alderperson who serves concurrently as an appointed member of the Board of Estimates. The remaining four (4) members and one alternate shall be residents of the City of Madison of legal voting age. At least one (1) of the remaining four members shall be a student representative on the University of Wisconsin-Madison's Labor Licensing Committee. Appointments shall be made by the Mayor, subject to the approval of the Common Council.
 - (c) Term. The alderperson member shall serve for a term of two (2) years. Citizen members shall serve for three (3) years. Any vacancies shall be filled by the Mayor, subject to approval of the Common Council, for a term filling out the remainder of the vacated member's term.
 - (d) Officers and Staff. The members of the Committee shall annually elect a chairperson from among its membership. The Committee shall be staffed by an employee of the Office of the Comptroller involved in Purchasing Services, who shall also serve as its secretary.
 - (e) Meeting Schedule. The Task Force shall meet as often as necessary, but at minimum four times per year.
 - (f) Compensation. Members of the Committee shall serve without compensation.

(Sec. 4.25 Cr. by ORD-05-00162, 10-27-05)

4.26 CITY PURCHASING.

- (1) Council Authorization. This ordinance authorizes the City Comptroller, or the Mayor and City Clerk, to enter into contracts on behalf of the City of Madison if the contracts meet the criteria of the ordinance. Contracts that do not meet the criteria set forth in this ordinance, and are not otherwise authorized by law, rule or regulation, shall be authorized separately by the Common Council, by resolution or otherwise. This ordinance does not apply to public works contracts required to be bid pursuant to sec. 62.15, Wis. Stats.
- (2) Goods and Supplies. The City may purchase supplies, equipment, goods and materials when the costs of the same have been included in the approved City budget. Except as otherwise authorized by the Common Council, purchases shall be made by the Comptroller, under this section and sec. 4.27, MGO, pursuant to policies adopted by the Mayor or the Comptroller that include a competitive process, and on forms approved by the City Attorney. A contract that is for the purchase or rental of equipment and includes maintenance or repair services is considered a contract for the purchase of equipment.
- (3) Services. The City may contract for the purchase of services. Except as otherwise directed by the Common Council, contracts for the purchase of services may be entered into without Council resolution when all the following conditions are met:
 - (a) The funds for the services are included in the approved City budget.
 - (b) The City has engaged in a Request for Proposals (RFP) or other competitive bidding process that has been approved by the Comptroller, or the contract is exempt from such a requirement pursuant to sub. (4) of this ordinance.
 - (c) The City Attorney has approved the form of the contract.
 - (d) The contract complies with other laws, resolutions, and ordinances.
 - (e) The contract is for a period of one (1) year or less, or the contract is for a period of more than one (1) year but not more than three (3) years and the cost of the services does not average more than \$50,000 per year of the contract, provided that this subparagraph is subject to sub. (4)(b) of this ordinance for non-competitive contracts.
- (4) Exceptions to RFP Process. The City may enter into negotiated contracts without a competitive bidding process for the purchase of services if the following are met:
 - (a) One or more of the following criteria are present as found by the Comptroller:
 1. Public exigency will not permit the delay incident to advertising or other competitive processes;
 2. The service required is available from only one person or firm;
 3. The services are for professional services to be provided by attorneys;
 4. The services are to be rendered by a university, college, or other educational institution;
 5. No acceptable bids have been received after formal advertising;
 6. Service fees are established by law or professional code;
 7. A particular consultant has provided services to the City on a similar or continuing project in the recent past, and it would be economical to the City on the basis of time and money to retain the same consultant;
 8. The contract is for \$25,000 or less; or
 9. Otherwise authorized by law, rule, resolution, or regulation.
 - (b) If the aggregate amount of the fee for services will exceed twenty-five thousand dollars (\$25,000) and the contract was not subject to a competitive bidding process, the contract shall meet one of the other requirements of sub. (4)(a) and be approved by the Common Council by resolution.
- (5) Execution of Contracts. Except as otherwise authorized by resolution or ordinance, contracts shall be signed by the Mayor and the City Clerk. Contracts allowed under subs. (2), (3), or (4)(a) may be signed by the Comptroller or designee. All contracts shall be on forms approved by the City Attorney.

(Cr. by ORD-06-00180, 12-5-06)

4.27 PURCHASING DIVISION.

- (1) The Purchasing Division shall be administered by a Purchasing Agent whose duties shall be performed by the Administrative Analyst/Purchasing.
- (2) The Purchasing Agent shall, under the supervision of the City Comptroller:
 - (a) Purchase supplies, materials, and equipment for the various departments, divisions, and offices of the City of Madison.
 - (b) Prepare bid specifications in cooperation with the appropriate department heads.
 - (c) Advertise for bids for purchases and for the razing of City-owned structures when bids are required by state laws or by City ordinances or other directives of the Common Council.
 - (d) Submit recommendations to the Common Council regarding bids received pursuant to (c) above.
 - (e) Maintain records and submit reports as directed by the City Comptroller, the Mayor, and Common Council.
 - (f) (R. by Ord. 10,689, 6-25-93)
 - (g) (R. by Ord. 10,689, 6-25-93)

(Renumbered from Sec. 3.17 by ORD-07-00047, Am. by Ord. 8762, 12-31-85)