

**Ordinance 18-10**

**TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE (BMC) ENTITLED  
“ADMINISTRATION AND PERSONNEL”**

**(Inserting BMC 2.26.200 to Provide for Additional Council Oversight of Intra-Category Transfers of \$100,000 or More within Certain Funds;  
Inserting BMC 2.26.205 to Require Submittal and Approval of Capital Plans Associated with Such Funds for the Applicable Year and Council Review of Capital-Related Expenditures of \$100,000 or More Not Identified in those Plans; and,  
Inserting BMC 2.26.210 to Require that Certain Other Expenditures in Such Funds of \$100,000 or More be Identified and, if Not Previously Identified, then be Reviewed by the Council)**

WHEREAS, the Common Council is the legislative body of the City of Bloomington and shall perform or exercise all powers and duties within the City that are of a legislative nature and, in that regard, is authorized to manage the finances of the City to the extent they are not vested in the executive branch (IC § 36-4-4-4); and

WHEREAS, as the legislative body of the City, the Common Council “may pass ordinances, orders, resolutions, and motions for the government of the city, the control of the city's property and finances, and the appropriation of money” (IC § 36-4-6-18); and

WHEREAS, one of the primary duties of the Common Council is to work in concert with the Mayor to fix the budget, tax rates and tax levies for the ensuing year in accordance with IC 36-4-7-7 and IC 6-1.1-17 et seq and other statutory requirements; and

WHEREAS, in the course of performing those duties, the Mayor and Controller together with department heads prepare and present an estimate of the City Budget for consideration by the Common Council during Departmental Budget hearings that are held in the summer; and

WHEREAS, this estimated budget proposes appropriations for expenditures which are made from various line items within four budget categories – Category 1 (Personnel Services), Category 2 (Supplies), Category 3 (Other Services and Charges), and Category 4 (Capital) – for the many departments and divisions, which are primarily located in the City General Fund and the Parks General Fund, but are also located within the various other (appropriated) funds; and

WHEREAS, these proposed expenditures are based upon memos and presentations made by department heads and the Mayor to the Council, including details of capital projects, and the exchange between the Mayor’s administration and the Council along with exchanges with the general public which, as a whole, become an understanding of what will be accomplished in the ensuing year and how much it will cost; and

WHEREAS, once the budget is fixed and the City enters the new fiscal year, the State requires that the transfer of funds from one fund to another and from one of the four categories within a fund to another be proposed by the Mayor and authorized via passage of an appropriation ordinance by the Common Council after an advertised public hearing; and

WHEREAS, however, transfers within the four budget Categories of the various funds, even transfers of great sums of money, which has been most evident in Category 4 (Capital), currently only need communication with the Controller, before the transfer can be made; and

WHEREAS, these changes may be the result of changes in City services, practices, and/or priorities that the Council may want to review and approve after an opportunity for public comment; and

WHEREAS, in general, the Common Council may increase appropriations only upon recommendation of the Mayor, but also may, if deemed necessary, decrease appropriations on its own initiative by ordinance (IC§ 36-4-7-7 & 8); and

WHEREAS, the Common Council finds that the following additional oversight of the transfer of funds and certain expenditures of at least \$100,000 by the executive branch: (1) is a prudent measure in order to assure expenditures are in accord with the understandings reached during budget deliberations; (2) will otherwise help the Common Council fulfill its role as a responsible steward of the City's finances and property; and, (3) is thereby consistent with, and in furtherance of, the City's Financial Policies Manual;

NOW THEREFORE BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON THAT:

SECTION 1. The Bloomington Municipal Code (BMC), Chapter 2.26 entitled "Controllers' Office," shall be amended by inserting a new section BMC 2.26.200 which shall read as follows:

**2.26.200 Council Review of Certain Intra-Category Transfers within Certain Appropriated Funds**

(a) Along with approvals by the Common Council of transfers of funds already required by state law and regulation, other Transfers of funds (Transfers) shall also be subject to review by the Common Council in accordance with the provisions of this section.

(b) Transfers subject to review by the Common Council. The Council review of Transfers shall apply when all of the following circumstances are met:

(1) The Transfers are within any of the funds (Funds) set forth in Department of Local Government Finance (DLGF) Form 4 (Ordinance for Appropriation and Tax Rates) for the Civil City for the applicable year, except the following:

(A) Debt Service Funds (which includes all bond and lease funds);

(B) Fire (#901) and Police (#900) Pension Funds (as the same may be renamed or renumbered in the future);

(C) Fleet Maintenance (#802) (as the same may be renamed or renumbered in the future); and

(D) Self Insurance (0203) (as the same may be renamed or renumbered in the future).

(2) The Transfers are made within the budget(s) associated with a Budget Report for an applicable Fund set forth in DLGF Form 4a of the annual budget ordinance for the Civil City; and

(3) The Transfers would allow appropriations in a line-item to be used in another line-item within three of the four Budget Categories (i.e. Category 2 [Supplies], Category 3 [Other Services and Charges], and Category 4 [Capital], but not Category 1 [Personal Services]). The amount appropriated in each line-item shall be determined in the following manner at these steps in the appropriation process:

(A) Budget Worksheet Report. The Budget Worksheet Report sets forth the amounts in the various line-items associated with the Budget Proposal for the ensuing year. It may be presented at one time at the beginning of the Departmental Budget Hearings in the summer. In that circumstance, the amount in each line-item shall be determined by what appears in the Budget Worksheet Report along with any increase or decrease in line-items specifically identified in writing by the Controller at the time the appropriation ordinance is introduced for consideration at the Common Council in the fall. In the event corrections need to be made in the first Budget Worksheet Report during the course of Departmental Budget Hearings, the Controller shall make his or her best efforts to track and note those changes in the budget materials.

A second, revised Budget Worksheet Report may also be submitted along with the appropriation ordinance for consideration by the Common Council in the fall. In that circumstance, the amount in each line-item shall be determined by what appears in the revised Budget Worksheet Report at the time the appropriation ordinance is introduced for consideration at the Common Council. In addition,

in order to make these revisions more apparent to readers of these budget documents, any increase or decrease in line-items since completion of the first Budget Report Sheet in the summer must also be specifically identified in writing by the Controller no later than at the time the appropriation ordinance is introduced for consideration at the Common Council that fall.

(B) Amendment of Annual Appropriation Ordinance. In addition, the amount in a line-item may increase or decrease by amendment adopted during consideration of the annual appropriation ordinance.

(C) Additional Appropriation. Last, the amount in a line-item may increase or decrease as the result of an appropriation ordinance adopted during the applicable budget year.

(4) The Transfers would amount to at least one hundred thousand dollars (\$100,000). This monetary threshold may be met by a single Transfer out of one line item into one or more line items, or it may be met by a single transfer into one line item.

(c) Council Review. Unless excepted by part (d) of this section or by state law, Transfers identified in part (b) are subject to review by the Common Council in the following manner. In addition, expenditures as specified in BMC 2.26.205 and BMC 2.26.210 are also subject to review in the following manner as that manner may be modified by those sections. In that regard, references to fiscal actions subject to review in part (c) shall be hereinafter referred to as a "Transfer or Expenditure."

(1) Proposed Transfer or Expenditure submitted by resolution. A resolution proposing the Transfer or Expenditure shall be submitted in accordance with the Council Annual Schedule and in time for review by the Common Council prior to the Transfer or expenditure. Upon being assigned a number, the resolution shall be simultaneously submitted by the Administration to the Council members, Council Office staff, City Clerk, and City Clerk Office staff. The Office of the City Clerk shall confirm the date of receipt and shall within two (2) business days of receipt post the request in a manner that is best suited to alert the public of this proposal.

(2) Content of resolution. The resolution shall include information sufficient for the Council to make an informed decision regarding the request. This information shall provide a description of the Transfer or Expenditure which shall include, but not be limited to the: Fund, department/division, amount of money, and change line items involved in the request; the purpose and circumstances surrounding the request; including the reasons for the change and the effect of the change on existing operations; and, timeframe requested for action and the reasons for it. One resolution may include more than one request and may combine a request for approval regarding related transactions under BMC 2.26.200, BMC 2.26.205, and BMC 2.26.210.

(3) Council Review. The Council President may either have the resolution placed on the agenda at the next Regular Session in accordance with the deadlines set forth in the Council Annual Schedule or may, with due regard for the level of urgency, arrange for a Special Session of the Council to be held to consider the resolution. The Transfer or Expenditure shall not be made without adoption of the resolution. The adoption of the resolution allows the transfer and expenditure to proceed in the ordinary manner and in compliance with all applicable laws and regulations.

(d) Exceptions to Process of Review. The full process for review set forth in part (c) of this section shall not apply in the circumstances set forth in part (d)(1) and notice is provided as set forth in part (d) (2) below.

(1) There is a critical, urgent, and unforeseen need under circumstances described below:

(A) There is an emergency, as determined by the department head and approved by the controller and Mayor, where the failure to transfer or expend funds would cause an underlying transaction not to proceed which, in turn, would cause an immediate danger to the health, safety, and welfare or loss to the City; or

(B) The Transfer or Expenditure is for the purpose of replacing current capital equipment with the same type of equipment in the event of an unexpected loss of function and when delaying replacement would be detrimental to public health or safety or prevent normal operations of city services.

(2) Notice. The Controller, or his or her designee, with approval of the Mayor, shall provide notice to the Council members, Council Office staff, City Clerk and the City Clerk Office staff no later than forty-eight (48) hours after the Transfer or

Expenditure. The Office of Clerk shall confirm the date of receipt and shall, within two (2) business days of receipt, post the notice in a manner best suited to alert the public its contents. The contents of the notice shall include the information set forth in part (c) (2) of this section.

SECTION 2. The Bloomington Municipal Code (BMC), Chapter 2.26 entitled "Controllers' Office," shall be amended by inserting a new section BMC 2.26.205 which shall read as follows:

**2.26.205 Submittal and Approval of Certain Long-Term Capital Plans and Council Review of Certain Expenditures Not Identified in those Plans**

(a) The Controller or his or her designee, with the approval of the Mayor, shall file certain long-term capital plans with the Common Council as part of the annual budget process. The capital plans subject to this section are those specifying expenditures from Fund(s) identified in BMC 2.26.200(b) (1). These capital plans shall be delineated by fund and department, and include the budget line along with the amount and description of the item. The description of the item shall include the purpose and be in sufficient detail to inform the reader of the nature and scope of the item, distinguish it from other items, and align it with other similar items.

(b) Expenditures for items identified in a capital plan for a fiscal year shall be made only after the capital plan for that fiscal year has been approved by the Council. That approval shall be by resolution of the Council, unless the capital plan is otherwise deemed approved as set forth below. A capital plan for the applicable fiscal year shall be deemed approved by the Council (Approved Capital Plan) if it is filed as part of the annual budget process and the Council adopts the annual budget ordinance for the Civil City. In this case, the appropriations for the applicable Fund(s) must conform to the capital plan for the applicable fiscal year. In addition, changes in a capital plan shall be deemed part of an Approved Capital Plan for the applicable fiscal year if the proposed changes in expenditures are authorized with the adoption of another appropriation ordinance.

(c) Along with approvals by the Common Council of transfers of funds already required by state law and regulation, and the other Transfers of funds (Transfers) subject to review by the Common Council in accordance with 2.26.200, certain expenditures (Expenditure) in Category 4 (Capital) for items which are not identified in an Approved Capital Plan shall be subject to review by the Council as set forth below.

(d) The Council shall review Expenditures for items not identified in an Approved Capital Plan which amount to at least \$100,000.

(e) The process for review in these cases will be the same as in BMC 2.26.200 (c).

(f) The exceptions to Council review will be the same as in BMC 2.26.200 (d).

SECTION 3. The Bloomington Municipal Code (BMC), Chapter 2.26 entitled "Controllers' Office," shall be amended by inserting a new section BMC 2.26.210 which shall read as follows:

**2.26.210 Identifying Certain Expenditures of at least \$100,000 and Council Review of Certain Expenditures Not Previously Identified Prior to Payment**

(a) The Controller or his or her designee, with approval of the Mayor, shall be responsible for assuring that certain expenditures are identified for review by the Common Council prior to the payment of such expenditures. The expenditures that are subject to Council review in accordance with this section (Expenditures) include those in an amount of at least \$100,000 and within Fund(s) identified in BMC 2.26.200(b) (1), unless excepted below. The Expenditure shall be presented in sufficient detail to distinguish that expenditure from other expenditures. In that regard, the description of these Expenditures shall include the amount, department, budget line, and fund(s), and shall elaborate upon the purpose as is needed to define the nature and scope of the item.

(b) Previously Identified Expenditures. Previously identified expenditures are those meeting the threshold criteria set forth in part (a) that have been previously presented to, and authorized by, the Council and, therefore, do not require additional review under this section. If submitted as part of the annual budget process, this information shall be set forth in the budget memo for the applicable department and also be accurately reflected in the Budget Worksheet for the department, the Budget Report for the applicable Fund(s) set forth in DLGF Form 4a, and the DLGF form 4 of the annual appropriation ordinance. In addition, expenditures that are presented in sufficient detail and are, in whole or in part, authorized with the adoption of another appropriation ordinance, shall be deemed previously identified and exempt from Council review under this section.

(c) Along with other fiscal actions subject to review by the Common Council under BMC 2.26.200, Expenditures meeting the threshold criteria set forth in part (a) and not previously identified as set forth in part (b) of this section, shall also be subject to review as set forth below.

(d) The process for review in these instances will be the same as in BMC 2.26.200 (c).

(e) The exceptions to Council review will be the same as in BMC 2.26.200 (d).

SECTION 4. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 19<sup>th</sup> day of December 2018.

  
DOROTHY GRANGER, President  
Bloomington Common Council

ATTEST:

  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this 20<sup>th</sup> day of December, 2018.

  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED AND APPROVED by me upon this 20<sup>th</sup> day of December, 2018.

  
JOHN HAMILTON, Mayor  
City of Bloomington

## SYNOPSIS

This ordinance is sponsored by Council President Granger and Council Vice President Piedmont-Smith. It would amend Chapter 26 (Controller's Office) of Title 2 (Administration and Personnel) of the Bloomington Municipal Code (BMC) by adding three sections. The first is Section 2.26.200, which would require additional Council review of certain intra-category transfers within certain appropriated funds. The second is Section 2.26.205, which would require submittal and approval by the Council of capital plans for the applicable year associated with above-mentioned appropriated funds. The third is Section 2.26.210, which would require that certain expenditures of at least \$100,000 be identified to the Council as part of an appropriation ordinance and that the Council review certain of those not previously-identified expenditures in advance of their payment.