

## CITY BUDGET PROCESS FREQUENTLY ASKED QUESTIONS (FAQs)

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### 1. What are the budget approval requirements for cities?

Assuming there are no relevant city charter provisions or special acts establishing a different process, approval of a city's annual budget is governed by [G.L. c. 44, § 32](#). The answers that follow assume no contrary charter or special act provisions.

### 2. What information must be included in a proposed budget submitted by a mayor to the city council?

Within 170 days after the annual organization of the city government in any city (other than Boston), the mayor must submit the annual budget to the city council that includes certain minimum detail for the proposed spending purposes of the city for the next fiscal year. Specifically, [G.L. c. 44, § 32](#) requires that the annual budget show separately, at a minimum, for each office, department or purpose, amounts for the following:

- 1) Ordinary maintenance, including debt service, and subdivided into
  - a) Salaries and wages of officers, officials and employees other than laborers or persons performing the duties of laborers; and
  - b) Ordinary maintenance not included under (a); and
- 2) Other expenditures, including additional equipment estimated to cost over \$1,000.

### 3. Is the mayor required to include the amount requested by the school committee for the operation of the schools in the budget submitted to the city council?

No, the amount recommended by the mayor for the operation of the city school department, or for a regional school district assessment, needs to meet the minimum school spending requirements of [G.L. c. 70](#), but it may be less than requested by city or regional school committee. See [Superintendent of Schools of Leominster v. Mayor of Leominster](#), 386 Mass 114 (1982).

### 4. What is the procedure after the mayor's submission of the budget to the city council?

The city council may "by majority vote make appropriations for the purposes recommended and may reduce or reject any amount recommended in the annual budget." The council has 45 days from receipt of the annual budget to act on each and every amount recommended by the mayor. If the council has not acted on any recommended amount, "either by approving, reducing or rejecting" it, within that 45-day period, that amount becomes part of the appropriations for the year without any further action of the city council. [G.L. c. 44, § 32](#).

**5. If the city council wishes to reduce the budget, what is the procedure?**

Under [G.L. c. 44, § 32](#), any amount in the mayor's proposed annual budget (often submitted to the council as a proposed appropriation order) that the city council has not voted, within 45 days of its receipt of the budget, to approve, reduce or reject takes effect as the appropriation for that purpose for the fiscal year. Therefore, a vote purporting to reduce the entire budget, or to reduce categories of spending, by a total amount or percentage without actually voting to reduce each amount in the mayor's proposed budget by specific dollar amounts is ineffective. Without that specificity regarding individual appropriations, a city council reduction in the budget would make all the appropriations ambiguous. The city auditor would have no basis for deciding which budgetary appropriations should be reduced, and therefore no authority to refuse to pay bills from any of the budgetary appropriations on the grounds that they were incurred in excess of the appropriation. See [G.L. c. 41, § 52](#) and [G.L. c. 44, § 31](#). If the city council wishes to reduce the budget by a particular amount or percentage in total or for certain purposes, it must vote to reduce each and every applicable appropriation in the mayor's proposed budget by specific dollar amounts, as necessary to achieve that end.

In our experience, most city budgets have 2-4 appropriations per department in the budget appropriation order, e.g., personal services, ordinary maintenance, extraordinary maintenance and equipment the estimated cost of which exceeds \$1,000. The supporting documentation submitted by the mayor with the proposed appropriation order will show how the amounts were derived and break them down further into the salaries for all department positions, types of expenses, etc. However, those supporting details are almost never the proposed "amounts" within the meaning of [G.L. c. 44, § 32](#).

For example, a mayor submits a fiscal year budgetary package to the council that includes a proposed appropriation order with 2-4 separate lines or amounts for each department, e.g., salaries and wages, ordinary maintenance and proposed expenditures for other than ordinary maintenance, including additional equipment the estimated cost of which exceeds \$1,000. In addition to the appropriation order, the budget package also includes supporting documentation showing how the proposed appropriation order was derived, including explanatory information, last year's expenditures, revenue estimates and detailed break-down of the appropriations into individual salaries for all department positions, types of expenses, etc. In our opinion, under [G.L. c. 44, § 32](#), the council approves, reduces or rejects the amounts in the appropriation order and not within the detailed budgetary break-down submitted by the mayor for informational purposes. Therefore, if the mayor's proposed appropriation order for police department salaries was \$1,000,000 and the supporting documentation showed the appropriation included \$60,000 for the animal control officer's salary, although the council may reduce the \$1,000,000 police department salary appropriation by \$60,000 with the intent to eliminate funding for the animal control officer's position, the result is that the police department's total salary appropriation is reduced to \$940,000 and the mayor is not prevented from retaining the employment of the animal control officer within that reduced total appropriation.

**6. May the city council increase an appropriation in the annual budget without a recommendation of the mayor?**

A city council cannot increase any amount recommended by the mayor in the annual budget on its own initiative, with one exception that only applies in cities that have accepted it. [G.L. c. 44, § 32; Section 2 of Chapter 329 of the Acts of 1987](#). If that option has been accepted, a city council may, by two-thirds vote, increase the amount recommended by the mayor for the city school department or regional school district assessment provided that (1) the city or regional school committee has recommended the increase, and (2) the increase does not make the total budget exceed the property tax limitations imposed in [G.L. c. 59, § 21C](#), i.e., does not result in a budget that cannot be funded within the city's

Proposition 2½ levy limit. That means the city council must reduce other amounts in the mayor's budget by the amount of the increased school amounts unless the mayor agreed that the overall budget, as increased, can be funded within the levy limit.

**7. May the city council add items to the annual budget without a recommendation of the mayor?**

A city council may only add an item when there is no recommendation of any kind for that particular spending purpose in the mayor's budget and it follows the procedure found in [G.L. c. 44, § 33](#). A recommendation of zero funding constitutes a "recommendation."

If no recommendation of any kind has been made for an item or purpose the city council considers necessary, the council must vote to request that the mayor make a recommendation for an appropriation for that purpose. Only if the mayor does not make a recommendation within seven days of that vote may the city council, by two-thirds vote, make an appropriation for that purpose. [G.L. c. 44, § 33](#). See *Daly v. Mayor of Medford*, 241 Mass. 336 (1922) (appropriation by alderman for clerk of committees salary omitted by mayor lawful) and *Flood v. Hodges*, 231 Mass. 252 (1918) (appropriation by city council for wage increases for police and fire employees void).

**8. May the city council vote to reject the mayor's proposed budget, or vote to reduce the total proposed budget by a specified percentage or amount?**

No. Unless the city's charter provides otherwise, the mayor's proposed budget will take effect if no other action is taken within 45 days of the date the budget was submitted. The mayor submits a proposed annual budget to the city council that must contain a minimum level of detail for each department's appropriations. (See FAQs # 2 and #5 above.) Any amount in the mayor's proposed budget that has not been approved, reduced or rejected by vote of the council within the 45-day period takes effect as the appropriation for that purpose.

**9. What happens if the mayor does not submit an annual budget to the city council within the required 170 days?**

If the mayor does not submit an annual budget within the statutory time period, [G.L. c. 44, § 32](#) provides for the city council to prepare an annual budget by June 30. The council's budget is generally subject to the same requirements as a budget submitted by the mayor, e.g., it must contain the same minimum detail required for each office, department or purpose. Within 15 days of preparing a proposed budget, the city council must vote on it. As with the amounts in the mayor's proposed budget, any amount that the council has not voted to approve, reduce or reject within that 15-day period takes effect as the appropriation for the stated purposes for the fiscal year.

**10. Can the mayor veto a city council vote on the budget under [G.L. c. 44, § 32](#) or city council appropriations under [G.L. c. 44, § 33](#)?**

No. Under [G.L. c. 39, § 4](#), city council action on budgets submitted under [G.L. c. 44, § 32](#) and appropriations by a city council under [G.L. c. 44, § 33](#) are not subject to veto by the mayor. Also see [G.L. c. 43, §§ 55 and 63](#).

**11. If the city does not have an operating budget on July 1, can it spend based upon 1/12 of the prior fiscal year's budget?**

If the city does not have an operating budget for the fiscal year on July 1 due to circumstances beyond its control, the mayor may submit a “continuing appropriation budget ... on a month to month basis for a period not to exceed three months.” [G.L. c. 44, § 32](#). This means the mayor may submit a budget for July if the annual budget is not approved by June 30, a budget for August if the annual budget is not approved by July 31 and a budget for September if the annual budget is not approved by August 31. However, there is no requirement that a continuing budget for any of those months be equal to 1/12 of the previous fiscal year's operating budget. Each continuing budget can provide for all expenses that may be incurred for that particular month. The tax rate will be based upon the actual budget that is adopted for the entire fiscal year, which would include the amounts approved in continuing budgets.

Given that no time frame is provided in [G.L. c. 44, § 32](#) for the city council to act on a continuing appropriation budget, together with the necessity of a city having budget authority to incur expenses beginning July 1, it is our opinion that once submitted, a continuing appropriation budget is effective unless and until the city council votes to reject or reduce any or all amounts within it.

**12. Can a city council vote to approve all or part of the annual budget contingent upon passage of a Proposition 2½ override?**

No. Under [G.L. c. 59, § 21C\(m\)](#), only towns with town meetings may make appropriations contingent on passage of a Propositions 2½ ballot question. The election at which a question to make a contingent appropriation effective must take place within a certain time following the “town meeting” at which the appropriation was voted.