

2.04.020 Vacation Of The Office Of Alderperson; Selection Of Replacement

The Common Council finds that:

1. The authority to determine how an aldermanic vacancy is filled rests solely with the Common Council as the elected legislative body of the City, pursuant to Wis. Stat. § 17.23(1)(am).
2. City staff shall support the Common Council in carrying out that determination promptly and efficiently.

A. Vacation of Office.

1. An alderperson's office shall be deemed vacant upon the occurrence of any one of the following events:
 - a. The alderperson's resignation;
 - b. A change in the alderperson's residency from the aldermanic district in which they were elected to another aldermanic district within Wauwatosa;
 - c. A change in the alderperson's residency from Wauwatosa to a place outside Wauwatosa; or
 - d. The alderperson's death; or
 - e. As otherwise determined by applicable law.
2. An alderperson ~~also may~~ shall file with the City Clerk a written declaration of prospective vacancy to announce their intention to vacate their aldermanic position, on a date certain, by resignation or expected change in residency. The purpose of declaring a prospective vacancy is to allow the ~~common council~~ Common Council to fill the vacancy without leaving an aldermanic district unrepresented for a period of time. Once an alderperson has filed a written declaration of prospective vacancy, that declaration shall be binding and they may not withdraw it.
3. ~~When an alderperson's residency changes in a manner that triggers a vacancy under Section A(1)(b) or A(1)(c), the alderperson shall notify the City Clerk of their new address in writing no later than five (5) business days following the effective date of the change in residency.~~
4. ~~If an officer of the City receives actual notice, in their official capacity, that an alderperson's residency has changed in a manner that triggers a vacancy under Section A(1)(b) or A(1)(c), and no written notification from the alderperson has been received by the City Clerk, such officer shall promptly notify the City Clerk~~
5. ~~Upon receipt of notice under Section A(2-4), the City Clerk shall promptly inform the Common Council.~~
3. ~~When an alderperson changes their residency from the aldermanic district in which they were elected to another aldermanic district within Wauwatosa, they may serve in a de facto capacity, or until their successor is appointed.~~
- 4.6. ~~When an alderperson changes their residency to a place outside Wauwatosa or their district, the alderperson shall have no authority to serve as an alderperson in any capacity. de facto or otherwise.~~

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7. For purposes of this section, "residency" shall be defined in the same manner as are qualifications for voting in local elections under the Wisconsin Statutes.

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B. It is the policy of the City of Wauwatosa that vacancies in aldermanic offices shall be filled by election of the voters of the affected aldermanic district whenever that can be accomplished within a reasonable timeframe. Council appointment is a secondary measure to be used only when an election is impracticable or where the district would otherwise be left unrepresented for a period of more than one year. Nothing in this Subsection limits the council's authority under Wis. Stat. § 17.23(1)(am).

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C. No later than the next regular council meeting following the Government Affairs Committee meeting under Section (D), the Common Council shall vote on a resolution:

1. Holding the vacancy open until the next regularly scheduled election consistent with Wis. Stat. § 17.23(1)(am);
2. Ordering a special election under Wis. Stat. § 8.50 to fill the vacancy at the earliest qualifying election date;
3. Filling the vacancy by appointment under Subsection (F).

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D. Before the Common Council votes on any resolution under Subsection (C), the matter shall be referred to the Government Affairs Committee for review and recommendation.

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1. Upon the creation of a vacancy, or upon an alderperson's filing of a written declaration of prospective vacancy under Subsection (A)(2), the City Clerk shall promptly notify the Government Affairs Committee.
2. No later than the next regular meeting of the Government Affairs Committee following such notification, the Committee shall convene to consider whether the vacancy should be filled by election under Subsection (C)(1) or (C)(2), or by council appointment under Subsection (C)(3). The Committee's review shall include consideration of the factors set forth in Subsection (E).
3. The Government Affairs Committee shall adopt a written recommendation identifying its preferred course of action and the reasons therefor, and shall transmit that recommendation to the full Common Council.
4. The Common Council shall not vote on a resolution under Subsection (C) until it has received the Committee's written recommendation, or until thirty (30) days have elapsed from the date of vacancy notification, whichever occurs first. Nothing in this Subsection prevents the Council from departing from the Committee's recommendation.

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E. If the Council determines it necessary to appoint someone under Subsection (C), the Council may proceed to fill the vacancy by appointment under Subsection (F). The minutes of the meeting shall record each council member's vote. Appropriate grounds include one or more of the following:

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- (i) The unexpired term is twelve (12) months or fewer from the date of vacancy;

- (ii) No qualifying election date exists within a reasonable period such that the district would be unrepresented for more than a year;
- (iii) The cost and administrative burden of a stand-alone special election would be disproportionate to the length of the unexpired term; or
- (iv) Other extraordinary circumstances.

B-F. 5. Committee to Nominate Replacements.

1. When an aldermanic vacancy occurs, or when an alderperson has declared a prospective vacancy, and the Common Council has determined, pursuant to Subsection (C) that a council appointment is appropriate (either as an interim appointment pending a special election, or as a full appointment in lieu of a special election), and such vacancy occurs at such a time that it is necessary to appoint a replacement member prior to conducting an election, an aldermanic nomination committee of five current council members shall be formed to assess the qualifications of applicants and to recommend one of the applicants to the full ~~common council~~ Common Council to fill the vacancy.
2. Four members of the aldermanic nomination committee shall be selected by the City Clerk drawing lots. If the chosen alderperson from such district chooses not to serve on the committee, or is otherwise unable to serve, a replacement alderperson will be selected by lot as follows: If the vacancy is in an odd-numbered aldermanic district, alderpersons from each of the four odd-numbered districts shall serve as members of the aldermanic nomination committee. If the vacancy is in an even-numbered aldermanic district, alderpersons from each of the four even-numbered districts shall serve as members of the aldermanic nomination committee. One of the members of the committee will be the remaining alderperson from the aldermanic district which has a vacancy. The aldermanic representative from aldermanic districts represented by two alderpersons shall be chosen by lot. If the chosen alderperson from such district chooses not to serve on the committee, or is otherwise unable to serve, the other alderperson from that district shall serve instead.
3. The mayor shall appoint the fifth member of the aldermanic nomination committee from among the common council members who are not chosen to serve on the committee in accordance with paragraph ~~(F)(2), above; except, however, that the mayor may not appoint to the committee an alderperson from an aldermanic district already represented on the committee.~~
4. The mayor shall appoint the chair of the aldermanic nomination committee from among the five common council members who were chosen in accordance with paragraphs (B)(2) and (B)(3) above.

C-G. Selection of Replacements by Common Council.

1. The process for filling by council appointment, where authorized under Subsection (C), an aldermanic vacancy shall be as follows:
 - a. The city clerk shall announce the vacancy in the manner customarily used for official city announcements ~~for such vacancies.~~ Wauwatosa residents interested in the vacancy shall have two weeks from the date of the

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announcement to submit an application to the aldermanic nomination committee.

- b. No later than two weeks after the close of the application deadline, the aldermanic nomination committee shall meet and conduct interviews of the applicants. The committee may select an applicant to recommend to the full ~~common council~~ Common Council at that meeting, or at a subsequent meeting to be held within seven days of the first meeting.

~~2.—~~Those interviews of the aldermanic applicants shall be videotaped and broadcast made publicly available through the online platform customarily used by the City for broadcasting meetings of the Common Council and Common Council committees, on the public access television channel customarily used by the city for broadcasting meetings of the common council and of common council committees.

~~3.—~~3. To allow for public comment and appropriate consideration by alderpersons who are not members of the aldermanic nomination committee, the ~~common council~~ Common Council shall not vote to fill any aldermanic vacancy unless at least seven days have elapsed since the aldermanic nomination committee has selected an applicant to recommend to the common council.

2. : The Common Council shall make its determination to either fill the vacancy by committee appointment or refer the vacancy to an election, or special election within sixty (60) days of the date of vacancy notification.

~~4.3.~~After the time period specified in ~~subsection~~Subsection (FC)(13) above has ended, the ~~common council~~ Common Council shall select one of the applicants for the aldermanic vacancy by a majority vote. It is not bound to follow the aldermanic nomination committee's recommendation.

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