

## **2.04.020 Vacation Of The Office Of Alderperson; Selection Of Replacement**

### **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 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 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 changes their residency from the aldermanic district in which they were elected to another aldermanic district within Wauwatosa, they may serve in until their successor elected, or appointed.
4. When an alderperson changes their residency to a place outside Wauwatosa, the alderperson shall have no authority to serve as an alderperson in any capacity.
5. 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.

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 where 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).

C. No later than the next regular council meeting following the creation of a vacancy, 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).

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.

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, provided that the minutes record the Council's stated reasons for doing so.

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 and shall include a written statement of the reason(s) the majority found an election impracticable. Appropriate grounds include one or more of the following:

- (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 documented in the council minutes.

F. Committee to Nominate Replacements.

1. When an aldermanic vacancy occurs, or when an alderperson has declared a prospective vacancy, 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), 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 to fill the vacancy.
2. Four members of the aldermanic nomination committee shall be selected by 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.

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 (B)(2).
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.

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. Wauwatosa residents interested in the vacancy shall have two weeks from the date of the 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 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 on the public access television channel customarily used by the city for broadcasting meetings of the common council and of common council committees.

To allow for public comment and appropriate consideration by alderpersons who are not members of the aldermanic nomination committee, the 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.

3. After the time period specified in Subsection (F)(1) above has ended, the 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.