

Item 8
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Sec. 303. Vacancies.

A. When a Vacancy Occurs; Granting Permission for Absences.

If a member of the City Council is absent from four (4) consecutive regular meetings of the City Council scheduled and held, unless by permission of the City Council expressed in its official minutes contemporaneously with such absences or sooner, or is convicted of a felony or crime involving moral turpitude, or submits a letter of resignation to the City Clerk, or because of the election of the current office holder to another seat on the City Council, or other office requiring the surrender of the City office seat, the office shall become vacant as of the date of the last absence (in the case of four unexcused, consecutive absences from regular City Council meetings), the date of such conviction (in the case of conviction of a felony or crime involving moral turpitude), ~~or~~ the effective date of resignation as set forth in such letter of resignation, or the date on which the current office holder is sworn into another office (in the case of an election to another office), as applicable. The permission of the Council shall be granted for any temporary illness of the requesting Councilmember disabling him or her from attendance at such meeting. The City Council shall declare the existence of any vacancy or anticipated vacancy as soon as practicable.

B. Anticipated Vacancies with Intervening Consolidated Elections; Duration of Elected Replacer's Term.

If (1) a vacancy is expected to occur in an office of any member of the City Council or Mayor because of either the election of the current office holder to another seat on the Council or other office requiring the surrender of the City office seat, and (2) if, between the time the expectation of vacancy occurs (by final election results for the other election contest having been announced) and the time the actual vacancy is expected to occur, any other federal, state or local (non-City) election involving all the electors of the City is scheduled to be held at such a time that permits a special election to be called and consolidated with such other federal, state or local election, then (A) the City Council shall call and request consolidation of such special election with such other election or elections, and (B) the vacancy so expected to be created shall be filled by such special election. A person elected in such special election to fill a vacancy shall serve for the remainder of the term of the office and until a successor qualifies.

C. ~~Unanticipated Vacancies~~ Filling Vacancies: Appointments and Special Elections.

Except under the circumstances hereinabove provided in paragraph B, the City Council shall fill such vacancy by election or appointment as set forth herein.

1. If a vacancy is declared by the Council with one (1) year or less remaining in the term from the date of declaration, the Council shall within 45 days appoint a person to fill the vacant seat on the City Council.

In the event Council shall make such an appointment, such an appointee office holder shall be entitled to hold office until a successor subsequently qualifies at the expiration of the remaining Council or Mayoral term.

If the Council is unable to make an appointment, the Council's power to appoint within 45 days of declaration of vacancy is hereby terminated for the duration of such minimal remaining term and the seat will remain vacant. The Council shall use good faith and best efforts to reach agreement on such an appointment. If the Council is unable to make an appointment during the allotted time, the Council's power to appoint is terminated.

2. If a vacancy declared by the Council occurs with ~~more than one (1) year~~ 25 months or more remaining in the term from the date of said declaration, the Council shall call a special election to be held on the next established election date, as specified in the Elections Code of the State of California, or within 120 days from the declaration of vacancy, whichever is practical, unless there is a federal, state, or local election scheduled to be held within 180 days of the declaration of the vacancy. If there is a federal, state, or local election scheduled to be held within 180 days of the declaration of the vacancy, the Council may consolidate the special election with that election, as provided by the Elections Code.

a. In the special election, the voters in the district for which a vacancy shall be filled shall be entitled to vote for one (1) candidate from the district. If a candidate receives the majority of the votes cast in that candidate's district, that candidate shall be deemed and declared by the Council to be elected to the vacant office, ~~the two (2) candidates for Councilmember in the~~

~~district receiving the highest and second highest number of votes cast by the voters of the district shall be the candidates in a special run-off election, as provided in subparagraph b., below. Ties among candidates shall be resolved in the manner provided in Section 300.A.3.~~

b. If no candidate receives a majority of votes cast in the special election, to fill a vacancy, a special run-off election shall be held in the district in which the vacancy exists, on the next established election date, as specified in the Elections Code, or within 120 days following the certification of the special election results, whichever is practical, unless there is a federal, state, or local election scheduled to be held within 180 days following the certification of the special election results, at which time the Council may consolidate the special run-off election with that election, as provided by the Elections Code. The two (2) candidates receiving the highest number of votes cast for the vacant seat in the first special election shall be the only candidates for the vacant Council seat and the name of only those two (2) candidates shall be printed on the ballot for that seat.

c. A vacancy in the office of Mayor shall be filled in the same manner as provided in subparagraphs a., and b., above, except that the voters of the City at-large shall be entitled to vote.

3. If a vacancy is declared by the Council with more than one year but less than 25 months remaining in the term from the date of declaration, the Council may either appoint a person to fill the vacant seat on the City Council, pursuant to subsection C.1., above, or call a special election to fill the vacancy, pursuant to subsection C.2., above. The Council shall determine, by majority vote within fourteen days of the declaration of vacancy, whether to fill the vacancy by appointment or by special election.

If the Council determines to fill the vacancy by appointment and is unable to make an appointment within 45 days of the Council declaring a vacancy, the Council's power to appoint is terminated and the Council shall call a special election pursuant to section 303.C.2., above.

4. Notwithstanding any other provision in this Section 303.C to the contrary, if an appointment would result in a majority of the members serving on the City Council being appointed, the Council shall not fill the vacancy by appointment; rather: (a) where the vacancy is for a remaining term of one year or less, the office shall remain vacant; and (b) where the vacancy is for a remaining term of more than one year but less than 25 months, the Council shall call a special election to fill the office in accordance with section 303.C.2.

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5. As provided in Section 300.C, any person who is appointed by the Council to fill the office of Councilmember or Mayor may not seek nomination and election to said offices of Councilmember or Mayor until a period of one year from the termination of the appointed terms has elapsed. Said appointee shall be eligible to seek nomination and election for two (2) full terms thereafter.