

Code Ordinance

By: Attorney and City Clerk
Introduced: September 14, 2020
Public Hearing: September 28, 2020
Adopted: September 28, 2020
Yes: Burney, Graham, Harvey, Ledford, Velock
No: None
Absent: None
(Clerk's Note: Seat A Vacant)

**City of Wasilla
Ordinance Serial No. 20-32**

An Ordinance Of The Wasilla City Council Amending Wasilla Municipal Code 2.04.040, Vacancy On The Council, To Clarify And Revise Time Periods For Filling A Vacancy On City Council By Appointment.

Section 1. Classification. This ordinance is of a general and permanent nature and shall become part of the city code.

Section 2. Amendment of Section. WMC 2.04.040, Vacancy on the council, is hereby amended to read as follows:

A. The council shall, by two-thirds concurring vote, declare a council seat vacant only when the incumbent:

1. Fails to qualify or take office within 30 calendar days after election or appointment;
2. Unless excused by the council, is physically absent from the city for 90 consecutive calendar days;
3. Resigns and the resignation is accepted;
4. Is physically or mentally unable to perform the duties of office;
5. Is convicted of a felony or of an offense involving a violation of the oath of office;
6. Is convicted of a felony or misdemeanor described in AS 15.56;
7. Is convicted of a violation of AS 15.13;
8. No longer physically resides in the city; or
9. Unless excused by the council, misses three consecutive regular meetings.

B. A council member who ceases to be a city voter immediately forfeits office and no council action is needed.

Bold & Underline, added. ~~Strikethrough, deleted~~

C. Except as otherwise provided in this section or required by law, if a vacancy occurs on the council, the remaining members shall appoint a qualified person to fill the vacancy within 45 days from the date the vacancy is declared. ~~in accordance with the guidelines below.~~

D4. If a seat is vacated with less than 30 days remaining ing in itsa term, that seat shall not be filled by appointment ~~a vacancy shall not be filled~~ consistent with AS 29.20.180.

E.2. If a seat is vacated with 30 or more days remaining ing in theits term, the vacant seat is ~~not up for election,~~ and the notice of offices to be filled has already been advertised published for the next upcoming regular election, the seat is not included in that notice, and that election has not yet been certified, the council shall fill the vacancy no more than 45 days after certification of that election. ~~appoint a qualified person to serve until a candidate is elected at the next year's regular election.~~

F3. If the vacant seat is up for election and the person appointed to the position would serve less than 60 days before the vacant seat is filled at that election, the council may determine by resolution that it is in the city's best interest not to make a short-term appointment and to fill the seat through the election process.

GD. If membership is reduced to less than the number required to constitute a quorum, the remaining members shall, within seven calendar days, appoint the number of qualified persons necessary to constitute a quorum.

HE. A person appointed under this section serves until the next regular election at which the vacant seat can be filled. If a vacant seat is filled at an election before the end of the term vacated, ~~when~~ a successor shall be elected to serve only the balance of the term.

Bold & Underline, added. ~~Strikethrough, deleted~~

Section 3. Effective Date. This ordinance shall take effect upon adoption.

ADOPTED by the Wasilla City Council on September 28, 2020.


Bert L. Cottle, Mayor

ATTEST:


Jamie Newman, MMC, City Clerk






[SEAL]

Bold & Underline, added. Strikethrough, deleted

**City of Wasilla
Legislative Staff Report
Ordinance Serial No. 20-32
(Code Ordinance)**

Amending Wasilla Municipal Code 2.04.040, Vacancy On The Council, To Clarify And Revise Time Periods For Filling A Vacancy On City Council By Appointment.

Originator: Holly Wells, City Attorney and Jamie Newman, MMC, City Clerk
Date: 8/31/2020 Agenda of: 9/14/2020

Route to:	Department Head	Signature	Date
X	Finance Director		9-2-20
X	Deputy Administrator		9/2/2020
X	City Attorney		9.2.20
X	City Clerk		9/1/2020
X	Mayor		9/2/2020

Fiscal Impact: yes or no
Attachments: Ordinance Serial No. 20-32 (3 pages)

Summary Statement: The City of Wasilla, through the City Clerk's Office, is dedicated to filling vacancies on the City Council efficiently and quickly to ensure that Council has six elected members as required by WMC 2.04.010. To this end, the Ordinance revises WMC 2.04.040 to clarify that unless expressly permitted in the Wasilla Municipal Code or by law, Council must appoint a person to fill a vacant seat on Council within 45 days. The Ordinance also clarifies that while Council may forego short-term appointments as currently provided in the Code, Council must do so by resolution and only when an appointee would serve for 60 days or less before the seat is filled by the voters. While filling Council vacancies quickly is important, filling such vacancies by appointment during an election cycle often leads to legal and ethical challenges surrounding both the appointment and the election process. Concerns regarding eligibility, conflicts of interest, disclosure, and campaigning often surface and create confusion for the public, potential appointees, candidates, and Council Members. In order to address this, the Ordinance revises WMC 2.04.040 to provide Council with the ability to postpone an appointment when it occurs too late to get it on the ballot and too early to avoid a mid-election appointment. More specifically, Council may wait until 45 days after certification only where: 1) a vacancy occurs after the notice of seats to be filled at an election has been published; 2) the vacant seat is not included in the published notice; 3) and the election has not yet been certified. In addition to and in light of these substantive changes, the Ordinance revises the language in WMC 2.04.040 for clarity and consistency.

Proposed Action: Introduce and set the Ordinance for public hearing.