

**CITY OF WASILLA  
ORDINANCE SERIAL NO. 10-32(AM)**

**AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 2.04, VACANCY ON THE COUNCIL, AND WMC 2.16.050, VACANCY IN OFFICE OF MAYOR.**

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**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 amended to read as follows:

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

1. Fails to qualify or take office within thirty (30) calendar days after election or appointment;

2. **Unless excused by the council, is [IS]** physically absent from the city for ninety (90) consecutive calendar days [UNLESS EXCUSED BY THE COUNCIL];

3. Resigns and the resignation is accepted;

4. Is physically or mentally unable to perform the duties of office[ AS DETERMINED BY TWO-THIRDS VOTE OF THE COUNCIL];

5. Is convicted of a felony or of an offense involving a violation of the oath of office;

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**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

6. Is convicted of a felony or misdemeanor described in AS 15.56[ AND TWO-THIRDS OF THE COUNCIL CONCUR IN EXPELLING THE PERSON ELECTED];

7. Is convicted of a violation of AS 15.13;

8. No longer physically resides in the city[ AND THE COUNCIL BY TWO-THIRDS VOTE DECLARES THE SEAT VACANT, EXCEPT THAT IF A COUNCIL MEMBER CEASES TO BE A CITY VOTER, THE MEMBER IMMEDIATELY FORFEITS OFFICE]; or

9. Unless excused by the council, [IF A MEMBER] misses three consecutive regular meetings [UNLESS EXCUSED].

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

**C[B].** If a vacancy occurs on the council, the remaining members shall[, WITHIN THIRTY (30) CALENDAR DAYS,] appoint a qualified person to fill the vacancy **within forty-five (45) days.** If less than thirty (30) days remain in a term, a vacancy **shall** [MAY] not be filled. **If 30 or more days remain in the term, and the notice of offices to be filled has already been advertised for the next regular election, the council shall appoint a qualified person to fill the vacancy at the first regular meeting following the regular election.**

**D[C].** If membership is reduced to less than the number [OF] required [MEMBERS] to constitute a quorum, the remaining members shall, within seven calendar days, appoint the number of qualified persons necessary to constitute a quorum.

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**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

E[D]. A person appointed to fill a vacated seat serves until the next regular election, when a successor shall be elected to serve the balance of the term.

**Section 3. Amendment of section.** WMC 2.16.050, Vacancy in the office of mayor, is amended to read as follows:

A. A vacancy in the office of mayor occurring within **six (6) months** [ONE HUNDRED EIGHTY (180) CALENDAR DAYS] prior to a regular election shall be filled by appointment by the council. The person appointed shall serve until the next regular election and until a successor is elected to serve the balance of the term. If a council member is appointed, the council member shall resign the council seat. If a vacancy occurs more than **six months** [ONE HUNDRED EIGHTY (180) CALENDAR DAYS] prior to a regular election, the council shall call a special election to fill the unexpired term.

B. The council shall, by two-thirds concurring vote, declare the office of mayor vacant only when the person elected:

1. Fails to qualify or take office within thirty (30) calendar days after election or appointment;
2. Unless excused by the council, is physically absent from the city for ninety (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;

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**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

6. Is convicted of a felony or a misdemeanor described in Alaska Statutes 15.56;


7. Is convicted of a violation of Alaska Statute 15.13; or

8. No longer physically resides in the city.

**C. A mayor who ceases to be a city voter immediately forfeits office, and no council action is needed.**

**Section 4. Effective date.** This ordinance shall take effect upon adoption of the Wasilla City Council.

ADOPTED by the Wasilla City Council on October 11, 2010.

  
VERNE E. RUPRIGHT, Mayor

ATTEST:

  
KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

VOTE: Harris, Holler, Katkus, Larson, Luburger, and Woodruff in favor.



**CITY OF WASILLA  
LEGISLATION STAFF REPORT**

**ORDINANCE SERIAL NO. 10-32 AMENDING WMC 2.04, VACANCY ON THE  
COUNCIL AND 2.16.050 VACANCY IN OFFICE OF MAYOR.**

**Agenda of:** September 27, 2010

**Date:** September 10, 2010

**Originator:** Kristie Smithers, City Clerk for Council Member Larson

Route to:	Department	Signature/Date
X	City Attorney	
X	Finance Director	
X	Interim Deputy Administrator	
X	City Clerk	

**REVIEWED BY MAYOR VERNE E. RUPRIGHT:**

**FISCAL IMPACT:**  yes  no

**Funds Available**  yes  no

**Account name/number:** none

**Attachments:** Proposed Ordinance Serial No. 10-32

**SUMMARY STATEMENT:**

The proposed ordinance is intended to revise the code in regard to City Council and Mayor vacancies in office. By adopting the proposed ordinance, vacancies in the office of City Council and Mayor will be treated, as far as possible, the same.

**Section 2.** Currently, the code allows for the Council to declare a seat vacant when a Council Member misses three consecutive, unexcused, regular meetings. This amendment will now allow the Council to declare a Council seat vacant if a Council Member misses three consecutive, unexcused meetings, to include regular *and special* meetings.

This section also includes an amendment that when a Council Member ceases to be a voter of the city, that the Council Member will forfeit office. There are also multiple grammatical corrections.

This amendment also allows the Council to appoint a qualified person to fill a vacancy within 45 days of the vacancy. It also states that if more than 30 days remain in a term, and the notice of the office to be filled has been advertised for the next regular election, the council shall appoint a member at the first regular meeting following the regular election.

Alaska Statute (A.S. 29.20.180(c) states "A person appointed . . . serves until the next regular election when a successor shall be elected to serve the balance of the term." Therefore, it would be possible to have a council member resign after the filing period closed for an upcoming election. If the Council appointed someone between the filing period for election and the October regular election, that person could only serve until that election; i.e., the next regular election.

In order to address this issue, the city clerk will request the Alaska Association of Municipal Clerks to ask the legislature for a correction.

By Alaska Statute (A.S.) 29.20.180, if less than 30 days remain in a term, a vacancy shall not be filled.

**Section 3.** This section revises the code to read the same as Title 29 which allows for a vacancy in the office of mayor occurring within six months, rather than 180 calendar days prior to a regular election to be appointed by the Council.

This section also includes an amendment that when the Mayor ceases to be a voter of the city, that the Mayor will forfeit office.

**RECOMMENDATION:** Introduce the ordinance and set for public hearing.