

Sec. 303. Vacancies.

(A) *When a Vacancy Occurs.* A City Councilmember or Mayor shall be deemed to have vacated their office on the date such office holder:

- (1) is absent from four consecutively scheduled and held regular meetings of the City Council without permission or excuse approved by the City Council;
- (2) is convicted of a felony or a crime involving moral turpitude;
- (3) resigns from office;
- (4) is sworn in to another office or position requiring the surrender of the City office;
- (5) is removed from office by judicial procedure or other state law proceeding;
- (6) forfeits the office under any provisions of this Charter;
- (7) no longer meets the qualifications necessary to hold the position;
- (8) is judicially-determined to be an incompetent;
- (9) is permanently so disabled as to be unable to perform the duties of the position. A finding of disability shall require the affirmative vote of at least two-thirds of the members of the Council after considering competent medical evidence bearing on the physical or mental capability of the officer; or
- (10) dies.

The City Council shall declare by resolution the existence of any 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 the election of the current office holder to another 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 declare an anticipated vacancy and 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) *Filling Vacancies: Appointments and Special Elections.* Except under the circumstances provided in Charter Section [303\(B\)](#), the City Council shall fill such vacancy by election or appointment as set forth herein.

- (1) *One Year or Less Remaining in Term.* If a vacancy is declared by the Council with respect to an elected office with one year or less remaining in the term of such office from the date of such declaration, the Council shall use their good faith, best efforts to fill that vacancy by Council appointment by no later than forty-five days

after the date of such declaration. In the event Council shall make such an appointment, the appointed office holder shall be entitled to hold such office until a qualified successor is subsequently sworn in at the expiration of the term.

If the Council is unable to make an appointment during the prescribed forty-five day time period, the Council's power to appoint to fill the vacancy shall terminate and the seat shall remain vacant for the remainder of the term.

(2) *Twenty-Five Months or More Remaining in Term.* If a vacancy declared by the Council occurs with twenty-five 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 Charter Section [901](#) and the [Elections Code](#), 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) *Special Election.* In the special election, the voters in the district for which a vacancy shall be filled shall be entitled to vote for one 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. Ties among candidates shall be resolved in the manner provided in Charter Section [901\(B\)](#).

(b) *Special Run-Off Election.* 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 Charter Section [901](#) and 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 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 candidates shall be printed on the ballot for that seat. If a special run-off election is required under this Charter Section [303](#), a write-in candidate may participate in such election only if the candidate qualified as a write-in candidate for the election initially held pursuant to Charter Section [902\(A\)](#).

(c) A vacancy in the office of Mayor shall be filled in the same manner as provided in Charter Section [303\(C\)\(2\)\(a\)](#), and [\(b\)](#) except that the voters of the City at-large shall be entitled to vote.

(3) *More than One Year But Less Than Twenty-Five Months Remaining in Term.* If a vacancy is declared by the Council with more than one year but less than twenty-five 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 Charter Section [303\(C\)\(1\)](#), or call a special election to fill the vacancy, pursuant to Charter Section [303\(C\)\(2\)](#). 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 forty-five 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 Charter Section [303\(C\)\(2\)](#).

(4) *Exception When Appointment Would Result in Majority of Appointed Councilmembers.* Notwithstanding any other provision to the contrary in Charter Section [303\(C\)](#), 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 twenty-five months, the Council shall call a special election to fill the office in accordance with Charter Section [303\(C\)\(2\)](#).

(5) *Future Election of Appointee to Elected Office.* Any person who is appointed by the Council to fill the office of Councilmember or Mayor as provided in Charter Section [303\(C\)](#), 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 term has elapsed. Said appointee shall be eligible to seek nomination and election for two full terms thereafter.

(6) *Mail Ballot Only Option in Case of Special Election.* If a vacancy in the office of an Elected Official is to be filled utilizing a special election that is not consolidated with a scheduled federal, State or local polling place election, the City Council may authorize such election to be conducted wholly by mail ballot.

Sec. 304. Presiding Officer, Mayor.

(A) *Duties.* The Mayor shall be a member of the City Council and shall perform all the functions and have all the powers and rights of a duly elected Councilmember. In addition to said powers and duties, the Mayor shall have the power and duty:

- (1) to report to the City Council annually on the affairs of the City and to recommend for its consideration such matters as the Mayor deems appropriate;
- (2) to be the official head of the City for all political and ceremonial purposes and, in the name and on behalf of the City, to sign all legal instruments and documents to which the City is a party except where otherwise provided herein or by applicable law, ordinance, or resolution, minute action, or order of the Council;
- (3) to take command of the police, maintain order, and enforce the law during a time of extreme public danger or emergency, with the consent of the Council, and for such period as the council may fix, with the advice and support of the City Manager and City Attorney;
- (4) to assume the primary, but not the exclusive responsibility, for describing to the people the policies, programs and needs of the City government and for informing the people of any major change in policy or program. The Mayor may represent the City in any and all matters involving other governmental agencies, provided that no act, promise, commitment or agreement entered into or committed by the Mayor shall be binding upon the City unless duly authorized or ratified by the City Council;