

FAQ: Mayor Pro Tempore

by Allen Garner

Missouri Statutes provide for city councils and boards of aldermen to elect a mayor pro tem from among members of the legislative body following the body's election and installation. Here are some frequently asked questions regarding mayor pro tem in the state of Missouri.

“Pro tem” sounds like some fancy Latin term. What does it mean?

Pro tem is an abbreviation of the Latin phrase *pro tempore*, that means “for the time being” or “temporary.” So that is the first thing to know about the mayor pro tem. The mayor pro tem serves temporarily in place of the mayor when the mayor is absent or effectively unavailable.

What are the duties of the mayor pro tem, and do they differ in third-class, fourth-class and charter cities?

Cities operating with a charter set forth the office and duties of the mayor pro tem within the charter. See MML’s *Model City Charter* for guidance.

For third-class cities, Chapter 78, Section 560 of the Revised Missouri Statutes provides that at the time of its organizing, the mayor and city council shall elect a mayor pro tem. Paragraph four states, “If the mayor be temporarily absent from the city, or become temporarily disabled from any cause, his duties shall be performed during such absence or disability by the chairman pro tem. In the absence of both the mayor and chairman pro tem the other members of the city council shall select one of their number to perform the duties of mayor.” RSMo78.560

For fourth-class cities, Chapter 79, Section 100 states “When any vacancy shall happen in the office of mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or from any other cause whatever, the acting president of the board of aldermen shall, for the time being, perform the duties of mayor, with all the rights, privileges, powers and jurisdiction of the mayor, until such vacancy be filled or such disability be removed; or, in case of temporary absence, until the mayor’s return.” RSMo79.100

Is a municipality required to have a mayor pro tem?

The statutes say yes.

For third-class cities, RS Mo 77.070 states, “At the first regular meeting of the city council after the election in each year —

which meeting shall occur at the time fixed by ordinance, but shall not be later than the fourth Tuesday in April — the council shall elect one of its members president pro tem, who shall hold his office for the term of one year.”

For fourth-class cities, RSMo79.090 states, “The board shall elect one of their own number who shall be styled ‘acting president of the board of aldermen’ and shall serve for a term of one year.” (emphasis added)

Is there a time period when city councils are supposed to elect a mayor pro tem?

In third- and fourth-class cities, procedures are similar and should be done at the organizational meeting each year.

Can a mayor pro tem be elected by secret ballot?

No. While the statutes do not specify the manner of conducting the election, the process is governed by the Sunshine Law (Chapter 610 RSMo). Many municipalities use some version of Robert’s Rules of Order that requires a nomination, second and vote. The governing body may vote during a public meeting by voice vote or roll call vote. (Missouri Attorney general Opinion No. 139-81)

Is it a conflict of interest for an alderman to vote for themselves to be the mayor pro tem?

No.



MPR
MIDWEST PUBLIC RISK

- Health Benefits
- Property & Liability
- Workers' Compensation

MEMBER OWNED | MEMBER FOCUSED

mprisk.org 816.292.7500



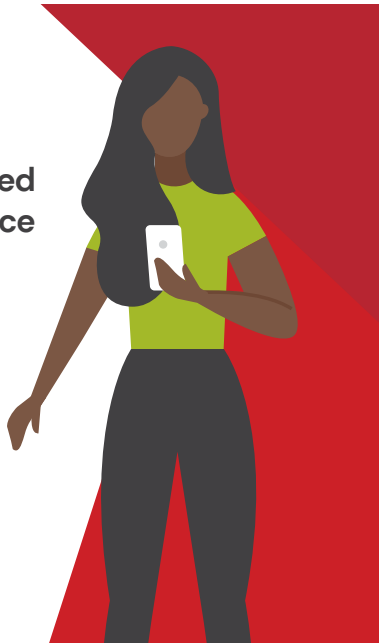
CivicPlus + Municode = Unparalleled Industry Knowledge and Experience

CivicPlus® and Municode are now one company, and together we're excited to continue bringing you the very best of what our two companies have offered for nearly 100 combined years.

Let us empower you to create positive civic experiences and build resident trust and appreciation through powerful, innovative, and comprehensive digital solutions designed specifically for local government.



Interested in learning more about our combined solution portfolio? Contact us at 888.228.2233 or civicplus.com/contact-us



Can the mayor pro tem retain voting rights as a council member while performing mayor pro tem duties?

Yes. "The mayor pro tem does not forfeit his or her seat on the board of aldermen. When presiding and calling for a vote, the pro tem still votes on the issues as an alderman. In rare circumstances when the pro tem is presiding and the vote is tied, he or she breaks the tie." (Rules for Fourth-Class Cities)

What if both the mayor and the mayor pro tem are absent?

"In the absence of the mayor and (president) mayor pro tem, the council or board may elect one of its members present to preside at such meetings, who shall be styled "acting (president) mayor pro tem." RSMo77.070, paraphrased.

What is the term length for mayor pro tem, and is there a term limit for serving as mayor pro tem?

Both RSMo 77.070 and 79.090 specify a one-year term for mayor pro tem. There are no term limits for being elected mayor pro tem unless imposed by the municipality.

How long will the mayor pro tem serve as acting mayor in the mayor's absence? What if the mayor resigns?

The mayor pro tem serves as acting mayor only in the case of a temporary absence of the mayor. When a vacancy occurs in the office of mayor, a new mayor is appointed by the council, or by special election.

The statutes offer additional information: "When any vacancy shall happen in the office of mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or from any other cause whatever, the acting president of the board of aldermen shall, for the time being, perform the duties of mayor, with all the rights, privileges, powers and jurisdiction of the mayor, until such vacancy be filled or such disability be removed; or, in case of temporary absence, until the mayor's return." (RSMo79.100)

If an alderman is acting as mayor pro tem do they get the same pay as the mayor?

The practical answer would be driven by the length of the period in which the pro tem acts as mayor. If it occurs for a brief period compensation would not have to be adjusted. If performing all duties for a significant length of time, it would be appropriate for the mayor pro tem to receive the mayor's regular compensation when actively serving in the absence of the mayor. RSMo 79.100 states, "... the acting president of the board of aldermen shall, for the time being, perform the duties of mayor, with all the rights, privileges, powers and jurisdiction of the mayor."

Does the ability to conduct business virtually mean the mayor can continue serving as mayor while on an extended leave of absence, such as spending winters in a warmer climate (snowbird)?

MO Sunshine Law (RSMo 610) does provide virtual attendance counting for quorum and voting by video conference. "**Public meeting**, any meeting of a public governmental body subject to Sections 610.010 to 610.030 at which any public business is discussed, decided or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat or internet message board." (RSMo 610.010(5))

If the mayor is out of town, does the mayor pro tem automatically take over as mayor, or does there need to be formal action by the mayor or council to officially transfer power?

The key question is whether the mayor is unable to perform the duties of mayor, and whether there is a necessity to activate the mayor pro tem as acting mayor, due to the mayor being effectively absent. Necessity is the key element. If the mayor commutes to a neighboring community for a job daily but is able to perform the duties of mayor there is no need for the mayor pro tem to become acting mayor for a few hours. If, on the other hand, the mayor will be traveling to a location where it would not be practical to perform a needed action, the mayor or council may ask the mayor pro tem to serve as acting mayor during the absence. 🌿

Allen Garner is the sole proprietor of Allen Garner Law, LLC, engaged in the practice of law with an emphasis on local government, labor, mediation and arbitration. He also provides general risk management advice and solutions particularly as it relates to units of local government.