

# Vacancies In Elected Offices



JANUARY 2024

## HOW ELECTED SEATS BECOME VACANT

While seats become vacant due to an elected official's death, health conditions, resignation (which may be verbal or written), relocation from the city or ward, removal from office, inability to qualify or a host of other reasons, seats should not be considered vacant until the governing body officially declares the vacancy. This formal declaration should occur during a properly noticed public meeting and be voted on by the governing body. Following this declaration, notice may also be provided through social media posts and flyers on city property to inform residents and encourage them to contact their elected officials if they are interested in serving as a member of the governing body. Municipalities are not required by state statute to advertise this vacancy, take applications, or appoint former candidates, but soliciting interested residents may provide a short list of suitable individuals.



## PROCEDURES TO FILL ELECTED SEAT VACANCIES

**Alderman/Council Member** – After a vacancy is declared in third and fourth class cities, the mayor or person exercising the duties of the mayor shall add this item to the agenda for the next suitable public meeting of the governing body. Filling vacant elected official seats as early as possible ensures the proper and continued functioning of city business. Leaving a seat vacant also means the voters of that ward are not being fully represented by their government. However, state statutes do not provide any penalties for not filling a vacancy, and some cities have gone until the next municipal election without finding a suitable appointee.

During this public meeting of the governing body, the mayor nominates the successor to fill the vacancy with the advice and consent of the remaining elected officials, meaning the mayor presents their nomination to the members of the governing body. This nominee only takes office if a majority of the remaining members vote to approve them. If the nominee does not receive enough votes, then the mayor may opt to nominate another candidate or withdraw nominations until another time.

**Mayor** – State statutes provide that if the vacancy is in the office of mayor, nominations of a successor may be made by any member of the governing body and selected with the consent of a majority of the members. For third class cities within St. Louis County, the person exercising the office of mayor shall cause a new election to be held if the mayoral vacancy occurs more than six months from the next municipal election (Section 77.240, RSMo).



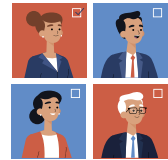
**Village Trustees and Chair** – All vacancies in the board of trustees shall be filled by the remaining members of the board, meaning the trustees nominate and approve appointees by majority vote. If the chair becomes vacant, the remaining members select one of the trustees to serve as temporary chair and then elect someone to fill the vacancy. The chair typically votes on all matters, but state statute provides that when filling trustee vacancies, the chair or temporary chair does not have a vote, except in the case of a tie.

## VOTING WITH VACANCIES

A majority of the total number of elected members is required for a quorum and to pass an ordinance, whereas a majority of the remaining members must vote to approve the mayor's appointee when filling a vacancy on the board of aldermen/city council. For example, if the governing body consists of four members plus a mayor, then three of the four members are required to pass an ordinance, but in the case of a vacancy, then two of the three remaining members must vote to approve the mayor's appointee. If there are two vacancies on a board with four members, then both remaining members must vote to approve the mayor's nomination.

## SELECTING AN APPOINTEE

The mayor cannot unilaterally appoint someone to fill council/board vacancies in third and fourth class cities, nor can the remaining board members appoint their own individual to fill a vacancy. A majority of the remaining members of the governing body must vote to approve the mayor's appointee, otherwise this becomes a stalemate, and the seat remains vacant. While the board can suggest potential nominations, the mayor is not obligated to accept them.

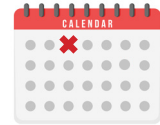


Several non-statutory factors may be considered when selecting an appointee, including whether the individual has previously run for office, been elected, expressed interest in public service, or is an upstanding member of the community. Compatibility with city staff and other members of the governing body is also important. The mayor may need to recruit individuals if nobody is interested in serving.

## APPOINTEE'S TERM LENGTH AND THE NEXT ELECTION

After being successfully appointed by a majority vote of the remaining members of the governing body, individuals take the oath of office and join the governing body as full members. They can participate in public meetings, effective immediately, and have the same authority and duties as elected officials.

State law for third and fourth class cities provides that officials appointed to fill a vacancy only serve until the next regular municipal election. For cities with wards, this may create a situation where more than one seat is open for the same ward during the election.



If the appointee's term does not end with the original term of the elected official, the city clerk should inform candidates in the next election about the reduced term length for that specific seat, and it should be noted on the ballot. This ensures staggered election cycles for all elected official seats. For example, if the appointee serves the first half of a two-year term, the winning candidate in the April election would only serve one year for that particular seat. Subsequent elections would return to the original term lengths to maintain the municipality's staggered election cycles.

## STATE STATUTES

While there are similarities in vacancy procedures across all municipalities, each class has its own dedicated statutes with subtle differences.

### Third Class Cities

- Section 77.240 RSMo – Vacancy In Office of Mayor
- Section 77.230 RSMo – Qualifications of Mayor
- Section 77.450 RSMo – Filling Council Member Vacancies
- Section 77.060 RSMo – Qualifications of Council Members
- Section 77.380 RSMo – Additional Requirements for Individuals Appointed to Fill Vacancies

### Fourth Class Cities

- Section 79.280 RSMo – Vacancy In Office of Mayor
- Section 79.080 RSMo – Qualifications of Mayor
- Section 79.280 RSMo – Filling Board Member Vacancies
- Section 79.070 RSMo – Qualifications of Board Members
- Section 79.250 RSMo – Additional Requirements for Individuals Appointed to Fill Vacancies

### Villages

- Section 80.230 RSMo – Trustee and Chair Vacancies
- Section 80.050 RSMo – Qualifications of Trustees

### Charter & Home Rule Cities

Refer to the individual city's charter for the specific vacancy procedures that must be followed.



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