



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Charter Rules re: Vacancies

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Charter Rules re: Vacancies

Reference Number: MTAS-1017

What Are the Rules?

Consult your charter before taking any action!

The city charter usually contains the rules governing the filling of council vacancies. Typically, there is a section in the city charter entitled “ Vacancies on the Board” or some such language where this information will be found. The rules vary greatly from city to city and it is very likely that the process used in one city is not acceptable or legal in another.

So, the first rule in filling vacancies is to consult your city charter. Ask your city attorney to review with the board what it must do to return its membership to full strength.

The vacancy provisions in a well-written city charter will include:

- A list of the conditions that require the declaration of a vacancy by the board;
- The amount of time the board has to fill the vacancy;
- The term to be served by the appointed board member; and
- Special conditions involving the vacancy of the mayor.

Vacancies in Cities Having the TCA Mayor-Alderman Form of Government

For those Tennessee cities having the General Law Mayor-Alderman form of government, the procedures for declaring and filling vacancies may be found in T.C.A. § 6-3-107, entitled “Vice Mayor – Vacancies in Office.” For these cities, a vacancy in the office of mayor is filled by the vice mayor, who serves in that capacity until the next election, provided such vacancy occurs more than 20 days in advance of the election. Otherwise, the vice mayor would serve until the expiration of the former mayor’s term of office.

Aldermanic vacancies are filled by a vote of the remaining board members. Should the vote result in a tie, the presiding officer of the board may vote a second time in order to break the tie.

The charter does not specify how much time a city has to declare or fill an aldermanic vacancy.

Vacancies in Cities Having the TCA Manager-Commission Form of Government

Cities having this form of government must fill city commission vacancies according to the stipulations of T.C.A. § 6-20-110, entitled “Board Vacancies.”

This section requires that any vacancy on the board will be filled by appointment of the remaining members of the board, for a term until the next regularly scheduled municipal election, at which point an election is held to fill the remainder of the unexpired term.

This same section of law allows the city to have only one appointed board member at any given time. In those instances where the board already has one appointed member, a subsequent vacancy must be filled by an election.

The law gives these cities 90 days to fill a board vacancy. If after 90 days the vacancy remains unfilled, the city must hold a special election to fill the vacancy. If the vacancy occurs within 75 days of a regularly scheduled municipal election, however, the city may forego the special election and simply fill the vacancy at the regular municipal election.

Vacancies in Cities Having the TCA Modified Manager-Commission Form of Government

The rules for filling vacancies in this form of government are found in T.C.A. § 6-31-201. These rules contain some unique provisions:

- A board member’s seat must be declared vacant if the member fails to attend at least 60 percent of all board meetings in any consecutive six-month period.
- A vacancy is created when a board member accepts employment with a state, county, or municipal agency that is filled by public election or “which is remunerative, except as a notary public or member of the national guard.”

- If the board is unable to agree upon an appointment within 30 days of the vacancy declaration, the mayor shall make the appointment.
- No appointments to fill board vacancies are to be made within 60 days prior to a regular municipal election.

Vacancies in Cities Having Private Act, Home Rule, Metropolitan Government Charters

The variety in these cities is almost endless and is too numerous to cover here. It should be sufficient to say that prior to declaring or attempting to fill a board vacancy in these cities, the board should carefully review its charter to determine the required procedure.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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