

## Part 1 Section 4.5 – Option 1

If more than one year on term, must be filled no later than next legally feasible November election day

### Sec. 4.5. - Vacancy of municipal elected office.

- 4.5.1 In the event that ~~When~~ a vacancy in an elected office of the city occurs with 365 days or more remaining in the term of the vacated office, ~~there shall be~~ a special election shall be held no later than the first Tuesday after the first Monday in November following the vacancy within 90 days after the vacancy occurs to elect a successor to serve for the remainder of the unexpired term of the office vacated. However, if holding a special election on the first Tuesday after the first Monday in November immediately following the vacancy would not permit compliance with all required notice provisions in this charter or state law, the special election shall be held no later than the first Tuesday after the first Monday in November of the calendar year following the vacancy.
- 4.5.2 A person elected at a special election held pursuant to this section to fill the balance of the unexpired term shall take office immediately after being qualified.
- 4.5.3. The procedure at such election ~~and assumption of duties of elected officers following such election~~ shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.
- 4.5.4 In the event of a vacancy ~~where there remains less than 365 days in the unexpired term in an elected office of the city~~, the council shall, by a majority vote, appoint a successor to serve the balance of for the unexpired remainder of said term or until a successor elected at a special election held pursuant to this section is qualified. In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.

### Optional Addition to all options presented for Section 4.5:

- 4.5.5 If two or fewer candidates file an affidavit of candidacy, the special primary election shall be canceled and the special general election may be moved up to the primary date with Council approval. If this option is utilized, it must be noted on the resolution calling for a special election.

Comments: This option only allows for Special Elections on the Uniform Election date in November. This option would follow the election calendar with a Special Primary in August if needed. Resignation Notice needed by April 5, 2023 for the Election to occur the same year as the resignation. The yellow highlighted could be left in, which would allow for appointment only if less than 365 days left in the term. (Special Election Date(s) in this option follow Uniform Election Dates per Minn Stat. §205.10.)

**Part 1 Section 4.5 – Option 2**  
**If more than one year on term, must be filled ASAP**

**Sec. 4.5. - Vacancy of municipal elected office.**

- 4.5.1 ~~In the event that~~ ~~When~~ a vacancy in an elected office of the city occurs with 365 days or more remaining in the term of the vacated office, ~~there shall be~~ a special election shall occur on a date established by the City Council per Minn Stat. §205.10, as the same may be revised, amended or recodified, held within 90 days after the vacancy occurs to elect a successor to serve for the remainder of the unexpired term of the office vacated.
- 4.5.2 A person elected at a special election held pursuant to this section to fill the balance of the unexpired term shall take office immediately after being qualified.
- 4.5.3 The procedure at such election ~~and assumption of duties of elected officers following such election~~ shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.
- 4.5.4 In the ~~event~~ ~~case~~ of a vacancy where there remains less than 365 days in the unexpired term in an elected office of the city, the council shall, by a majority vote, appoint a successor to serve the balance of for the unexpired remainder of said term or until a successor elected at a special election held pursuant to this section is qualified. In the case of a tie vote of the council, the mayor or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.

Comments: This option would fill the seat at the next available Uniform Election Date. The City has used the Uniform Election Dates since 2016 when Minn. Stat. §205.10 was amended. The yellow highlighted could be left in, which would allow for appointment only if less than 365 days left in the term.

Sec. 10.

Minnesota Statutes 2016, section 205.10, is amended by adding a subdivision to read:

Subd. 3a.

**Uniform election dates.**

(a) Except as allowed in paragraph (b) and subdivision 4, a special election held in a city or town must be held on one of the following dates: the second Tuesday in February, the second Tuesday in April, the second Tuesday in May, the second Tuesday in August, or the first Tuesday after the first Monday in November. A home rule charter city must not designate additional dates in its charter.

### Part 1 Section 4.5 – Option 3

**Vacancies filled no later than next legally feasible November election day, except no special election for vacancies after the notice period cut-off for November election in third year.**

#### Sec. 4.5. – Vacancy of municipal elected office.

- 4.5.1 ~~In the event that~~ ~~When~~ a vacancy in an elected office of the city occurs ~~with 365 days or more remaining in the term of the vacated office, there shall be~~ a special election ~~shall be~~ held ~~no later than the first Tuesday after the first Monday in November following the vacancy within 90 days after the vacancy occurs~~ to elect a successor to serve the remainder of the unexpired term ~~of the office vacated~~. ~~However, if holding a special election on the first Tuesday after the first Monday in November immediately following the vacancy would not permit compliance with all required notice provisions in this charter or state law, the special election shall be held no later than the first Tuesday after the first Monday in November of the calendar year following the vacancy. In the event that a vacancy in an elected office of the city occurs in the third year of the term at such time as would not permit compliance with all required notice provisions in this charter or state law, or in the fourth year of the term, no special election shall be held.~~
- 4.5.2 ~~A person elected at a special election held pursuant to this section to fill the balance of the unexpired term shall take office immediately after being qualified.~~
- 4.5.34 In the ~~event~~ ~~case~~ of a vacancy ~~where there remains less than 365 days in the unexpired term~~ in an elected office of the city, the council shall, by a majority vote, appoint a successor to serve ~~the balance of for~~ the ~~unexpired remainder of said~~ term ~~or until a successor elected at a special election held pursuant to this section is qualified~~. In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.
- 4.5.43 The procedure at such election ~~and assumption of duties of elected officers following such election~~ shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.

Comments: If the deadline is missed for a third year November Election, no special Election will occur in the third or fourth year of the term. Longest appointment option. The yellow highlighted could be left in, which would allow for appointment only if less than 365 days left in the term. (Special Election Date(s) in this option follow Uniform Election Dates per Minn Stat. §205.10.)

## Part 1 Section 4.5 – Option 4

### Vacancies filled no later than next legally feasible November election day, more definition for timing of elections that are not feasible or that cannot comply with notice provisions

#### Sec. 4.5. – Vacancy of municipal elected office.

- 4.5.1 ~~In the event that When a vacancy in an elected office of the city occurs with 365 days or more remaining in the term of the vacated office, there shall be a special election held within 90 days after the vacancy occurs to elect a successor to serve for the remainder of the unexpired term of the office vacated. three or more days before the first day to give notice of the period for filing an affidavit of candidacy for an election on the first Tuesday after the first Monday in November of the calendar year of the vacancy, the city must hold a special election to fill the balance of the unexpired term no later than the first Tuesday after the first Monday in November of the calendar year of the vacancy. In the event that a vacancy in an elected office of the city occurs after the notice provisions in state law to give notice of the period for filing an affidavit of candidacy for an election on the first Tuesday after the first Monday in November of the calendar year of the vacancy, the city must hold a special election to fill the balance of the unexpired term no later than the first Tuesday after the first Monday in November of the calendar year after the vacancy. In the event that a vacancy in an elected office of the city occurs after the notice provisions in state law to give notice of the period for filing an affidavit of candidacy for an election on the first Tuesday after the first Monday in November of the third year of the term, no special election shall be required but the city council may, by resolution, order that a special election to fill the balance of the unexpired term be held no later than the second Tuesday in May of the fourth year of the term.~~
- 4.5.2 ~~A person elected at a special election held pursuant to this section to fill the balance of the unexpired term shall take office immediately after being qualified.~~
- 4.5.34 In the ~~event~~ of a vacancy ~~where there remains less than 365 days in the unexpired term in an elected office of the city,~~ the council shall, by a majority vote, appoint a successor to serve ~~the balance of for the unexpired remainder of said term or until a successor elected at a special election held pursuant to this section is qualified.~~ In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant shall make the appointment from the candidates involved in the tie vote.
- 4.5.43 The procedure at such election ~~and assumption of duties of elected officers following such election~~ shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.

Comments: Special Election at next feasible November election date, if notice deadline is missed for third year November Election, a Special Election may be called by Council for a May Special Election in the fourth year of the term. The yellow highlighted could be left in, which would allow for appointment only if less than 365 days left in the term. (All options follow Uniform Election Dates in Minn Stat. §205.10)

## Part 1 Section 4.5 – Option 5

### Vacancies filled at next regular municipal election as in 412.02, subd. 2a, no vacancy special elections at other times

#### Sec. 4.5. – Vacancy of municipal elected office.

- 4.5.1 In the event that ~~When~~ a vacancy in an elected office of the city occurs ~~three or more days before the first day to give notice of the period for filing an affidavit of candidacy for the next regular municipal election and more than two years remain in the unexpired term, a special election to fill the balance of the unexpired term shall be held on the same date as the next regular municipal election. If the vacancy occurs after the third day before the first day to give notice of the period for filing an affidavit of candidacy for the next regular municipal election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy. with 365 days or more remaining in the term of the vacated office, there shall be a special election held within 90 days after the vacancy occurs to elect a successor to serve for the remainder of the unexpired term of the office vacated.~~
- 4.5.2 A person elected at a special election held pursuant to this section to fill the balance of the unexpired term shall take office immediately after being qualified.
- 4.5.3 The procedure at such election ~~and assumption of duties of elected officers following such election~~ shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.
- 4.5.4 In the ~~event~~ ease of a vacancy ~~where there remains less than 365 days in the unexpired term in an elected office of the city,~~ the council shall, by a majority vote, appoint a successor to serve ~~the balance of for the unexpired remainder of said term or until a successor elected at a special election held pursuant to this section is qualified.~~ In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.

Comments: No special if vacancy is less than two years (Special Election Date(s) in this option follow Uniform Election Dates per Minn Stat. §205.10.)

## Part 2 of Section 4.5

~~4.5.2 The city clerk shall give at least 60 days published prior notice of such special election, except as set forth under 4.5.5 of this section.~~

~~4.5.5 Office vacancy when less than eight weeks prior to primary election.~~

~~4.5.5.1 *Special election.* When a vacancy in an elected office of the city occurs when there is less than eight weeks prior to a primary election there shall be no primary election, except as provided in section 4.5.5.3 below. The special election to fill the vacancy shall coincide with the regular Municipal Election and the notice of such vacancy shall be published as soon as is practicable.~~

~~4.5.5.2 *Vacancy in offices to be voted on in the regular Municipal Election.* If a vacancy occurs less than eight weeks prior to the primary election, in the office of the mayor or the council members whose seats are to be voted on in the regular Municipal Election, said vacancy shall be considered not to exist for the purpose of the regular Municipal Election. The person elected to fill the vacancy in the regular Municipal Election, if approved by unanimous vote of the sitting council, may assume the duties of the office to which elected on the first business day following the city clerk's issuance of a certificate of election to said person.~~

~~4.5.5.3 *Vacancy in an office not to be voted on in the regular Municipal Election.* If a vacancy occurs in the office of the mayor or a councilmember not standing for election in the regular Municipal Election, a special primary election and a special election shall be held in January of the subsequent year following the vacancy to fill said vacancy. The election procedures for the special primary election and the special election shall be those election procedures for municipal office candidates as prescribed in Minnesota Statutes and this Charter. Notwithstanding section 2.3.1 of this Charter, which provides for a four-year term for the mayor and council members, the term of the mayor and/or a councilmember elected pursuant to this subsection will be for the remainder of the vacant term.~~

Comments: This removes section 4.5.5 and deletes the original 4.5.2, all previous options outline an updated/new 4.5.2

### Part 3 of Section 4.5

4.5.6 If a special election has been called to fill a vacancy in an elected office of the city, and no candidates filed an affidavit of candidacy prior to the expiration of the period for filing an affidavit of candidacy, the special election shall be cancelled. In the event that such a cancellation occurs there are insufficient numbers of candidates in a regular or special election to fill expiring or vacated municipal offices, the individual appointed by the city council to fill said vacancy under this section shall serve the balance of the unexpired term or until a successor elected at a special election held pursuant to this section is qualified fill said offices by appointment until the next regular municipal election. In the case of a tie vote of the council, the mayor shall make said appointment from the candidates under consideration. In the event that such a cancellation occurs, a special election to fill the balance of the unexpired term shall be held on the same date as the next regular municipal election, unless the next regular municipal election would be in the fourth year of the term.

For Reference purposes, current Charter language:

4.5.6 If there are insufficient numbers of candidates in a regular or special election to fill expiring or vacated municipal offices, the city council shall fill said offices by appointment until the next regular municipal election. In the case of a tie vote of the council, the mayor shall make said appointment from the candidates under consideration.

RRM: #317628 Originally Presented 4-20-2021  
Modified December 2022