

September 10, 2019

To: MAYOR AND CITY COUNCIL  
From: CITY ATTORNEY *wc*  
Subject: *FILLING A COUNCIL VACANCY*

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If a vacancy occurs in an elected office of a member of the City Council, Carlsbad Municipal Code ("CMC") section 2.04.030 would govern how the City Council must fill the vacancy. The steps outlined in CMC section 2.04.030 are as follows:

- (1) The City Council shall, within 60 days of the effective date of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy.
- (2) The registered voters of the district with the vacancy may require the City Council to call for a special election. Within 60 days of the date of the effective date of the vacancy, a special election shall be held if a petition bearing at least ten percent (10%) of the registered voters of the district in which there is a vacancy is presented to the City Clerk.
- (3) If the City Council appoints a person to fill the vacancy within 60 days of the effective date of the vacancy, and subsequently, a petition with the requisite number of registered voters is provided to the City Clerk, the City Council shall call for a special election. Any person appointed by the City Council to fill the vacancy, if any, would hold office up to and until the date of the special election.
- (4) If the City Council fails to fill the vacancy within 60 days of the effective date of the resignation, it shall immediately call an election to fill the vacancy. The special election shall be held on the next established election date not less than 114 days thereafter.
- (5) If a special election is called for by the City Council, either based on (a) the City Council's own prerogative, (b) via a petition by the registered voters or (c) the City Council's failure to fill the vacancy, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election.



City Attorney

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- (6) A person appointed to fill a City Council vacancy, when no special election has been called, or elected to fill a vacancy via a special election shall hold office for the remainder of the unexpired term of the former incumbent.
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Please contact me if you have questions.

Very truly yours

A handwritten signature in black ink, appearing to read 'Walter C. Chung', written in a cursive style.

Walter C. Chung  
Assistant City Attorney

cc: City Manager