

## **Section 25. Election; term; vacancies.**

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a. The council members shall be elected at the general election in the year nineteen hundred seventy-seven and every fourth year thereafter and the term of office of each council member shall commence on the first day of January after the elections and shall continue for four years thereafter; provided, however, that the council member elected at the general election in the year two thousand and one and at the general election in every twentieth year thereafter shall serve for a term of two years commencing on the first day of January after such election; and provided further that an additional election of Council Members shall be held at the general election in the year two thousand three and at the general election every twentieth year thereafter and that the members elected at each such additional election shall serve for a term of two years beginning on the first day of January after such election.

Notwithstanding any other provision of this charter or other law, a full term of two years, as established by this subsection, shall not constitute a full term under section 1138 of this charter, except that two consecutive full terms of two years shall constitute one full term under section 1138. A member of the council who resigns or is removed from office prior to the completion of a full term shall be deemed to have held that office for a full term for purposes of section 1138 of the charter.

b. **Any vacancy which may occur among the council members shall be filled by popular election in the following manner.**

1. Within three days of the occurrence of a vacancy in the council, the mayor shall proclaim the date for the election or elections required by this subdivision, provide notice of such proclamation to the city clerk and the board of elections and publish notice thereof in the City Record. After the proclamation of the date for an election to be held pursuant to paragraphs four or five of this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding

the date of such election in newspapers distributed within the city, and the board of elections shall mail notice of such election to all registered voters within the district in which the election is to be held.

2. If a vacancy occurs during the first three years of a four-year term or the first year of a two-year term, **a general election to fill the vacancy for the remainder of the unexpired term shall be held in the year in which the vacancy occurs**, unless the vacancy occurs after the last day on which an occurring vacancy may be filled at the general election in that same year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law. If such a vacancy occurs in any year after such last day, it shall be filled for the remainder of the unexpired term at the general election in the following year provided, however, that no general election to fill a vacancy shall be held in the last year of the term, except as provided in paragraph nine of this subdivision. Party nominations of candidates for a general election to fill a vacancy for the remainder of the unexpired term shall be made at a primary election, except as provided in paragraph five of this subdivision.

3. If a special or general election to fill the vacancy on an interim basis has not been previously held pursuant to paragraphs four, six, seven and eight of this subdivision, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office immediately upon qualification and shall serve until the term expires. If a special or general election to fill the vacancy on an interim basis has been previously held, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office on January first of the year following such general election and shall serve until the term expires.

4. If a vacancy occurs during the first three years of a four-year term or in the first year of a two-year term and on or before the last day in the third year of such a four-year term or the first year of such a two-year term on which an occurring **vacancy may be filled for the remainder of the unexpired term at a general election with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law**, a special or general election to fill the vacancy on an interim basis shall be held, unless the vacancy occurs less than ninety days before the next primary election at which party nominations for a general election to fill the vacancy may be made and on or before the last day on which

an occurring vacancy may be filled for the remainder of the unexpired term at the general election in the same year in which the vacancy occurs with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law.

5. If a vacancy occurs after the last day in the third year of a four-year term or the first year of a two-year term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election in each year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, but not less than ninety days before the date of the primary election in the fourth year of such a four-year term or the second year of such a two-year term, a special or general election to fill such vacancy for the remainder of the unexpired term shall be held.

6. Elections held pursuant to paragraph four or five of this subdivision shall be scheduled in the following manner: A special election to fill the vacancy shall be held on the first Tuesday at least eighty days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph one of this subdivision, may schedule such election for another day no more than ten days after such Tuesday and not less than seventy-five days after such proclamation if the mayor determines that such rescheduling is necessary to facilitate maximum voter participation; except that

(a) if the vacancy occurs before August seventeenth in any year and the first Tuesday at least eighty days after the occurrence of the vacancy is less than ninety days before a regularly scheduled general election, the vacancy shall be filled at such general election;

(b) if the vacancy occurs before August seventeenth in any year and the first Tuesday at least eighty days after the occurrence of the vacancy is after a regularly scheduled general election, the vacancy shall be filled at such general election; and

(c) if the vacancy occurs on or after August seventeenth in any year and the first Tuesday at least eighty days after the occurrence of the vacancy is after, but less than thirty days after, a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year.

7. All nominations for elections to fill vacancies held pursuant to paragraphs four and five of this subdivision shall be by independent

nominating petition. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph one of this subdivision shall not be counted.

8. A person elected to fill a vacancy in the council at an election held pursuant to paragraph four of this subdivision shall take office immediately upon qualification and serve until December thirty-first of the year in which the vacancy is filled for the remainder of the unexpired term pursuant to paragraph two of this subdivision. A

person elected to fill a vacancy in the council at an election held pursuant to paragraph five of this subdivision shall take office immediately upon qualification and serve until the term expires.

9. If a vacancy occurs less than ninety days before the date of the primary election in the last year of the term, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification and fill the vacancy for the remainder of the unexpired term.

(Am. L.L. 2019/215, 12/11/2019, eff. 12/11/2019)

**Bottom line vacancy is done by “resident election!”**

**ELECTION LAW**

# Watertown City Council seeking to fill vacancy after resignation of Council Member Roshia

by: [Isabella Colello](#)

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**WATERTOWN, N.Y. (WWTI) — The Watertown City Council is currently looking to fill a vacant seat.**

On the first Watertown City Council meeting of 2021, Council Member Jesse Roshia announced his resignation which is to take effect on January 31, 2021.

Watertown Mayor Jeffrey Smith commented on Council Member's resignation.

*"It has been an honor and a privilege to work alongside Council Member Roshia and serve the hardworking people of Watertown. Council Member Roshia brought a unique perspective to the Council that was both insightful and thoughtful. The community will certainly miss him, and I wish him and his family the best of luck moving forward."*

**Following this announcement, Watertown City Council is seeking to fill the vacancy. The individual chose would be expected to serve through December 31, 2021. The individual is required to be a City resident and eligible to vote in New York State.**

Those interested in applying to the vacancy have been instructed to send a letter of interest and resume to the [Mayors Office](#) in Watertown, New York by January 31, 2021.

## N.Y. Town Law § 85

Current through 2022 NY Law Chapter 841

Section 85 - Ward system for election of council members<sup>1</sup>. Whenever a proposition shall have been adopted in a town of the first class for the establishment of the ward system and the election thereafter of one council member from each ward, the board of elections of the county in which such town is situate shall divide the town into four wards and fix the boundaries thereof, unless a proposition shall have been adopted to increase the number of council members from four to six, in which instance, the board of elections shall divide the town into six wards and fix the boundaries thereof. In so dividing the town into wards, no town election district shall be divided, and no election district thereafter created under the election law shall contain parts of two or more wards. So far as possible the division shall be so made that the number of voters in each ward shall be approximately

equal. When the board of elections shall have finally determined the boundaries of the wards, they shall cause a map of the town to be prepared showing in detail the location of each ward and the boundaries thereof. The original map so made shall be filed in the office of the town clerk and copies thereof shall be filed in the offices of the county clerk and the board of elections of the county. The ward system shall be deemed established after such filing is complete. **After a ward system shall have been so established, the term of office of every town council member shall terminate on the thirty-first day of December next succeeding the first biennial town election held not less than one hundred twenty days after the establishment of such ward system, and at such biennial town election, and every biennial town election thereafter, one resident elector of each ward shall be elected as council member therefrom for a term of two years beginning on the first day of January next succeeding such election.**2. The ward system may be abolished upon the adoption of a proposition therefor at any special or biennial town election. At the first biennial town election held at least one hundred twenty days after the adoption of a proposition to abolish the ward system for election of council members, the electors of the town shall elect one-half of the total number of town council members for the term of two years each and one-half of the total number of town council members for the term of four years each. At each biennial town election held thereafter there shall be elected one-half of the total number of town council members for the term of four years each. The terms of all such council members shall begin on the first day of January next succeeding the date of their election.

*N.Y. Town Law § 85*

## Election Law:



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## Chapter 2: Council

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5. If a vacancy occurs after the last day in the third year of a four-year term or the first year of a two-year term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election in each year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, but not less than ninety days before the date of the primary election in the fourth year of such a four-year term or the second year of such a two-year term, **a special or general election to fill such vacancy for the remainder of the unexpired term shall be held.**

## SECTION 42

### Filling vacancies in elective offices

Public Officers (PBO) CHAPTER 47, ARTICLE 3

§ 42. Filling vacancies in elective offices. 1. A vacancy occurring three months before the general election in any year in any office authorized to be filled at a general election, except in the offices of governor or lieutenant-governor, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.

2. A vacancy occurring by the expiration of term at the end of an even numbered year in an office which may not under the provisions of the constitution be filled for a full term at the general election held prior to the expiration of such term, shall be filled at said general election for a term ending with the commencement of the political year next succeeding the first general election at which said office can be filled by election for a full term.

3. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his or her official term, or upon the occurrence of a vacancy in any elective office which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall, unless otherwise provided for by authorized local law, resolution or ordinance, make proclamation of a special election to fill such office within ten days of the occurrence of a vacancy, specifying the district or county in which the election is to be held, and the day thereof, which shall be: a. not less than seventy nor more than eighty days from the date of the proclamation to fill a vacancy in the office of a representative in congress or for a vacancy in any other office that is not in the state senate or assembly; and b. not less than forty days nor more than fifty days from the date of the proclamation to fill a vacancy in the state senate or assembly, provided, however, that the governor may issue a proclamation to fill any subsequent vacancy in the state senate or assembly for the same date as any previously scheduled special election as long as the proclamation is issued at least thirty days before the occurrence of the special election.

4. a. A special election shall not be held to fill a vacancy in the



office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after three months before the general election in such year.

b. A special election shall not be held to fill a vacancy in the office of state senator or in the office of member of assembly, unless the vacancy occurs before the first day of April of the last year of the term of office, or unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after three months before the next general election in such year.

c. A special election shall not be held to fill a vacancy in any other office subject to a proclamation by the governor pursuant to subdivision three of this section unless the vacancy occurs before the first day of April of the last year of the term of office.

**d. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.**

4-a. If a vacancy occurs in the office of United States senator from this state in any even numbered calendar year on or after the fifty-ninth day prior to the annual primary election, or thereafter during said even numbered year, the governor shall make a temporary appointment to fill such vacancy until the third day of January in the year following the next even numbered calendar year. If such vacancy occurs in any even numbered calendar year on or before the sixtieth day prior to an annual primary election, the governor shall make a temporary appointment to fill such vacancy until the third day of January in the next calendar year. If a vacancy occurs in the office of United States senator from this state in any odd numbered calendar year, the governor shall make a temporary appointment to fill such vacancy until the third day of January in the next odd numbered calendar year. Such an appointment shall be evidenced by a certificate of the governor which shall be filed in the office of the state board of elections. At the



time for filing such certificate, the governor shall issue and file in the office of the state board of elections a writ of election directing the election of a United States senator to fill such vacancy for the unexpired term at the general election next preceding the expiration for the term of such appointment.

5. Whenever the authority to fill any vacancy is vested in a board and such board is unable to fill such vacancy in an elective office by reason of a tie vote, or such board neglects to fill such vacancy for any other reason, the governor may, at the governor's discretion, make proclamation of a special election to fill the vacancy.