

TOWN OF BEAR RIVER

ORDINANCE: 2001-07

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF BEAR RIVER, WYOMING:

Vacancies – Mayor or Council Members:

- A. A vacancy in the position of a mayor or council members shall be deemed to exist when a majority of the mayor and all elected council members determine that a mayor or council member:
1. Is no longer a resident of the Town.
 2. Has been convicted of a felony.
 3. Has determined to be insane or mentally competent.
 4. Has become disqualified from holding office for any reason specified by law.
 5. Has had his or her term expired when no successor has been elected and qualified.
 6. Has refused to take the oath of office.
 7. Has his or her elected voided.
 8. Is convicted of a crime involving moral turpitude or constituting a breach of his or her oath of office.
 9.
 - a) has, as determined by a majority of the Town Council, failed to perform his or her duties in the manner necessary to adequately represent the citizens of the Town. For purposes of this section Town council shall be deemed to include the Mayor and council members.
 - b) in determining if a mayor or council member has failed to perform his or her required duties, the following shall be deemed as conclusive evidence:
 - (i) 3 or more unexcused or unexplained absences from duly called council meetings.
 - (ii) being absent from the town for such extended periods of time so as to make it impossible for the mayor or council member be aware of or involved in the business of the Town.
 - c) specifically as to determining if a mayor has failed to perform his or her required duties, the Town Council must find that the mayor has failed to assume the superintending control of the officers, employees and affairs of the Town and any other duties required by law.
 10. Has died.
 11. Resigns.
- B. Procedure for declaring a vacancy shall be as follows:

1. Upon investigation by the council or its designated official, and a determination of the existence of a copy of a certified copy of an order or a court of competent jurisdiction, a vacancy shall be deemed to exist with respect of Section A, (3), (4) or (7).
 2. The mayor or council member shall be deemed a nonresident and a vacancy therefore to exist as a Section A (1), when he or she shall have failed to occupy a place of fixed, permanent and customary place of habitation, within the boundaries of the municipality for a period of at least 300 days during each calendar year.
 3. A mayor or council member shall be deemed to have been convicted of a felony, a crime involving moral turpitude, or a breach of his or her oath of office as to Section A (2) or (8) upon receipt of a certified copy of an order of a court of competent jurisdiction showing a conviction, plea of guilty or plea of no contender.
 4. As to Section A (10), the death of the mayor or council member shall be evidence by a certificate.
 5. As to section A (11), a resignation shall be deemed effective an a vacancy to have occurred as follows:
 - a) A mayor or council member desiring to resign from his or her position on the governing body, shall submit a resignation in writing to the municipal clerk specifying the date her or she desires the resignation to be effective, which date shall not be more than thirty (30) days after the postmark date of the letter if mailed, or after the date of delivery to the municipal clerk.
 - b) The municipal clerk shall place the question of resignation before the governing body for acceptance or rejection at a special meeting or at the regular meeting next succeeding the postmark date of the letter of resignation or the delivery thereof to the municipal clerk.
 - c) The resignation may be withdrawn at any time prior to acceptance or rejection by the governing body; provided that a request for withdrawal of a resignation must also be in writing and received by the municipal clerk prior to the agenda day of the special or regular meeting at which the resignation shall be considered.
 - d) The resignation, unless withdrawn as stated in (3) above, shall be deemed effective and a vacancy to exist on the date requested by the resigning mayor or council member and/or a date determined by the governing body.
 6. The refusal of the mayor or council member to take the oath of office, as required by law, at the time and place and before the person designated, shall constitute a failure to take the oath as required by Section A (6) and a vacancy shall be deemed to exist at said time.
 7. Relating to actions taken pursuant to Section A and B, an abstention by any voting member of the governing body shall be considered a no vote.
- C. Any person aggrieved by the determination of the governing body on a vacancy shall be entitled to an informal public hearing before the governing body and may be represented by legal council, after which the governing body shall confirm, modify or reverse an earlier determination.
- D. Once determined to exist, a vacancy shall be filed as follows:
1. A vacancy must be filed by the governing body by appointment of a temporary successor to serve until a successor for the remainder of the un-expired term.
 2. Upon the declaration by the governing body that a vacancy exists or will exist, the governing body shall then publicly solicit applications from qualified electors to fill the vacancy, except a vacancy in the office of Mayor, which must be filled by an existing member of the Town

Council.

3. The term "qualified elector" includes every citizen in the United States who is a bonafied resident of the municipality, who has registered to vote and who is at least eighteen years of age. No person is a qualified elector who is a mentally incompetent person or who has been convicted of a felony and whose civil rights have not been reassured or who is otherwise barred from holding office by reason of state of federal law.
4. The application shall be submitted on a form approved by the governing body which from shall require that the applicant submit information establishing applicant's legal qualifications to hold office.
5. The governing body shall specify a time period for submitting applications and shall then review applications received and may conduct any further review of candidates deemed necessary and, by a majority vote of all members of the governing body, shall appoint a temporary successor.
6. Should selection of a council member or mayor occur prior the effective date of the vacancy and the member vacating the seat has resigned, that mayor or council member will be allowed a vote in the selection process for mayor and/or council member successor.
7. In the event that there is a tie in the vote for the successor for Mayor and/or Council Member, the decided vote will be determined by the acting Municipal Court Judge or Judge of Jurisdiction for the Town of Bear River.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2002.

Joseph P. Moesser, Mayor

Dawne Morphew, Town Clerk

PASSED ON SECOND READING THIS _____ DAY OF _____, 2002.

Joseph P. Moesser, Mayor

Dawne Morphew, Town Clerk

PASSED ON THIRD READING THIS _____ DAY OF _____, 2002.

Joseph P. Moesser, Mayor

Dawne Morphew, Town Clerk