

## **IC 5-8-5**

### Chapter 5. Notice of a Town Council Vacancy

#### **IC 5-8-5-1**

##### **Applicability**

Sec. 1. This chapter applies when a vacancy must be filled under:

(1) IC 3-13-9; or

(2) IC 3-13-11;

due to a reason set forth in IC 36-5-2-6.5(3).

*As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.16; P.L.119-2005, SEC.26.*

#### **IC 5-8-5-2**

##### **"Member" defined**

Sec. 2. As used in this chapter, "member" refers to a town council member.

*As added by P.L.174-2002, SEC.4.*

#### **IC 5-8-5-3**

##### **Public meeting to determine vacancy on town council**

Sec. 3. (a) The town council may hold a public meeting to determine whether a circumstance has occurred under IC 36-5-2-6.5(3) that results in a vacancy on the town council. The town council may set a meeting for making the determination on its own motion, or a person may petition the town council to set a meeting to make the determination. The town council may grant or deny a petition for a meeting.

(b) If a person files a petition with the council, the petition must state the basis for the person's claim that a circumstance has occurred under IC 36-5-2-6.5(3).

*As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.17; P.L.119-2005, SEC.27.*

#### **IC 5-8-5-4**

##### **Declaring vacancy on town council; notice of vacancy**

Sec. 4. (a) If the town council is reasonably satisfied that any circumstance has occurred under IC 36-5-2-6.5(3), the council may, by an affirmative vote of a majority of the members appointed to the body, vote to declare a vacancy in the town council membership. The member who is alleged to have vacated the member's seat may participate in the meeting as a member, but may not vote on the issue.

(b) If the member who is the subject of the petition or motion does not attend the meeting at which the town council makes the determination that a vacancy exists, the town council shall mail notice of its determination to the member.

(c) If the town council determines that a vacancy exists, the town clerk-treasurer shall give the circuit court clerk notice of the determination not later than five (5) days after the date of the town council's determination. The circuit court clerk shall give notice to

the county chairman if a caucus is required under IC 3-13-11 to fill the vacancy.

*As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.18; P.L.119-2005, SEC.28.*

#### **IC 5-8-5-5**

##### **Right of vacating town council member to file action**

Sec. 5. The member whose seat is vacated may file an action under IC 34-17-1 with the circuit court of the county where the town is located.

*As added by P.L.174-2002, SEC.4.*