

RE: Code Amendment to Authorize Appointment of Acting City Clerk in Case of Absence or Disability

Background:

The City Clerk has many and varied responsibilities and duties spelled out in the Nixa City Code including elections, custodian of records, and approving disbursements. For most of those responsibilities and duties there is no provision for authorizing anyone else to perform them. Nixa City Code Section 2-148 provides that in the absence of the City Clerk or Finance Director that the Mayor or Mayor Pro Tem shall approve all bills and disbursements of the City.

Analysis:

Staff has had several discussions regarding the best way to handle an absence of the City Clerk with all the various duties required of them. This code amendment would accomplish two things. First, it would give the City Administrator the authority to appoint one or more persons to carry out specified duties as an Acting City Clerk during an absence. This would give the City Administrator to divide the duties out to different people so that no single person would have to take on all of the City Clerk's responsibilities. The Council has oversight on this appointment and can choose to make a different appointment if it chooses.

Second, in the process of reviewing this issue, it was seen that the Code currently places the responsibility of approving all expenditures and signing checks, when used, upon the Mayor or Mayor Pro Tem in case of an absence of the City Clerk or Finance Director. It was thought the volume of bills and disbursements the City now has grown to the point that it would be more efficient to allow the City Administrator to appoint someone to discharge that duty rather than requiring the Mayor or Mayor Pro Tem to take the time required to perform it.

Recommendation:

Staff recommends passage of the ordinance authorizing the City Administrator to make appointment(s) to discharge the duties and responsibilities of the City Clerk during absences.

MEMO SUBMITTED BY:

Michael D. Mayes | Interim City Attorney

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1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 2,
2 ARTICLE III, DIVISION 2 OF THE NIXA CITY CODE BY ADDING SECTION 2-85 AND
3 AMENDING CHAPTER 2, ARTICLE IV, SECTION 20-148 FOR THE PURPOSE OF
4 ALLOWING THE CITY ADMINISTRATOR TO APPOINT AN ACTING CITY CLERK IN
5 CASE OF TEMPORARY ABSENCE OR DISABILITY.
6

7 WHEREAS the City Clerk has numerous duties and responsibilities as defined in
8 the City Charter and City Code; and
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10 WHEREAS one of those responsibilities is approving bills and signing checks for
11 all disbursements of funds as defined in Nixa City Code Section 2-148; and
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13 WHEREAS Nixa City Code Section 2-148 states that in the absence of the City
14 Clerk or Finance Director, the Mayor or Mayor Pro Tem shall execute all bills; and
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16 WHEREAS in case of a temporary absence or disability of the City Clerk there is
17 no provision generally for any other person to exercise and perform those duties and
18 responsibilities necessary to the conduct of City business; and
19

20 WHEREAS given the increase in volume of City disbursements, it is more efficient
21 to have someone other than the Mayor or Mayor Pro Tem approve all disbursements in
22 the absence of the City Clerk or Finance Director; and
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24 WHEREAS the City Council finds that amending the Code to allow the City
25 Administrator to make appointments of a person or persons to temporarily perform the
26 duties and responsibilities of the City Clerk and to appoint said persons to approve bills
27 and sign checks in the absence of the City Clerk or Finance Director is appropriate; and
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29 WHEREAS the City Council desires to modify the City Code as set forth herein.
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31 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
32 NIXA, AS FOLLOWS, THAT:
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34 SECTION 1: Chapter 2, Article III, Division 2 of the Nixa City Code is hereby
35 amended by adding Section 2-85, which said section shall read as follows (Explanation:
36 Language in bold-face type (e.g., **thus**) is language to be added. Language in bold-faced
37 brackets (e.g., [~~thus~~]) is not enacted and is intended to be omitted or deleted.):
38

39 **Sec. 2-85. Appointment of Acting City Clerk(s).**
40

41 **By letter filed with the office of the City Clerk, upon the temporary absence or**
42 **disability of the City Clerk, the City Administrator shall designate a qualified person**
43 **or persons as Acting City Clerk(s) to exercise the powers and perform all or a**
44 **portion of the duties of the City Clerk. The appointee shall be appointed solely on**
45 **the basis of such person’s executive and administrative qualifications. During such**
46 **absence or disability, the Mayor, with the consent of Council, may revoke such**

47 **designation at any time and appoint another qualified person or persons to serve**
48 **as Acting City Clerk(s).**

49 **SECTION 2:** Chapter 2, Article IV, Section 2-148 of the Nixa City Code shall be
50 repealed and adopted in lieu thereof a new Section 2-148 which shall read as follows:
51 (Explanation: Language in bold-face type (e.g., **thus**) is language to be to be added.
52 Language in bold-faced brackets (e.g., [~~thus~~]) is not enacted and is intended to be omitted
53 or deleted.):

54
55 Section 2-148. – Disbursement of funds.

56
57 No money of the city shall be expended until all bills are approved and checks
58 signed by the city clerk and finance director. In their absence the **City Administrator**
59 **shall designate a person or persons to approve bills and sign checks in their place**
60 **by letter filed with the City Clerk.** [~~mayor or mayor pro tem shall execute all bills.~~]

61
62 **SECTION 3:** The City Clerk, when codifying the provisions of this Ordinance, is
63 authorized to provide for different section numbers, subsection numbers, and different
64 internal citation references than those provided herein when such section numbers,
65 subsection numbers, or internal citation references are in error or are contrary to the intent
66 of this Ordinance.

67
68 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to
69 affect any suit or proceeding now pending in any court or any rights acquired, or liability
70 incurred nor any cause or causes of action occurred or existing, under any act or
71 ordinance repealed hereby.

72
73 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or
74 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
75 the validity of the remaining portions of this Ordinance. The Council hereby declares that
76 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
77 phrase thereof, irrespective of the fact that any one or more sections, subsections,
78 sentences, clauses, or phrases be declared invalid.

79
80 **SECTION 6:** This Ordinance shall be in full force and effect from and after its final
81 passage by the City Council and after its approval by the Mayor, subject to the provisions
82 of section 3.11(g) of the City Charter.

83
84 **[Remainder of this page purposely left blank. Signatures to follow on next page.]**

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95 **ADOPTED BY THE COUNCIL THIS _____ DAY OF _____ 2026.**

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97

ATTEST:

98

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100 _____
PRESIDING OFFICER

CITY CLERK

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103 **APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2026.**

104

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ATTEST:

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108 _____
MAYOR

CITY CLERK

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111 APPROVED AS TO FORM:

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114 _____
INTERIM CITY ATTORNEY