

CITY OF WHEATON, ILLINOIS  
CITY COUNCIL SPECIAL MEETING – MONDAY, MARCH 23, 2020  
WHEATON CITY HALL - 303 W WESLEY STREET  
7:00 P.M.

Pledge of Allegiance: Councilwoman Fitch

AGENDA

- I. Call To Order
- II. Roll Call
- III. Public Comment
- IV. Agenda

A. Special Agenda Item 1

Documents:

[AN ORDINANCE AMENDING SECTION 2-127 - EMERGENCY POWERS AND DUTIES - OF THE WHEATON CITY CODE.PDF](#)

B. Special Agenda Item 2

Documents:

[DECLARATION OF LOCAL STATE OF EMERGENCY-CORONAVIRUS.PDF](#)

C. Special Agenda Item 3

Documents:

[AN ORDINANCE EXTENDING A DECLARATION OF LOCAL STATE OF EMERGENCY ENTERED INTO MARCH 23, 2020.PDF](#)

V. Adjournment:

All Public Comments are limited to five (5) minutes and each citizen will be permitted to speak only once.

**ORDINANCE NO. O-2020-**

**AN ORDINANCE AMENDING SECTION 2-127  
“EMERGENCY POWERS AND DUTIES” OF THE WHEATON CITY CODE**

**WHEREAS**, in 1968, the Corporate Authorities in the City of Wheaton adopted Section 2-127 “Emergency Powers and Duties,” of Article III “Officers,” Division 2 “Mayor,” of Chapter 2 “Administration” of the Wheaton City Code; and

**WHEREAS**, since the adoption of Section 2-127 in 1968, municipal practices regarding emergencies, calamities and disasters have become more sophisticated and enhanced by management techniques and other strategies, focused on further improving the public health, safety and welfare; and

**WHEREAS**, the Corporate Authorities of the City of Wheaton have determined that it is in the best interest of the public health, safety and welfare to amend Section 2-127 “Emergency Powers and Duties” of “Article III Officers,” of Division 2, Mayor, of Chapter 2 “Administration” of the Wheaton City Code to strengthen the City’s ability to promote the public health, safety and welfare in emergency situations.

**WHEREAS**, his Ordinance is adopted pursuant to the City’s Home rule authority.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Wheaton that Section 2-127 “Emergency Powers and Duties” of Article III “Officers” of Division 2, Mayor, of Chapter 2 “Administration” of the Wheaton City Code is hereby amended by repealing Section 2-127 in its entirety and replacing it with new Sections 2-127 through 2- 134 which shall read as follows:

**SECTION 1:**

Sec. 2-127. Recitals. Local State of Emergency.

The foregoing recitals shall be and are hereby incorporated as findings of fact as if fully set forth.

Sec. 2-128. Definitions.

(a) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Emergency*: (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law; or (2)

Any manmade or natural emergency, calamity or disaster, including, but not limited to: epidemic, including outbreak of disease or sickness, flood, conflagration, cyclone, tornado, earthquake, explosion, or imminent threat of any of those events or similar events within the corporate limits of the city, resulting in, or threatening, death or injury of persons or the destruction of property, to such an extent that extraordinary measures should be taken to protect the public health, safety and welfare; or (3) Attacks on the City's IT (Information Technology) systems, electronics or mechanical equipment which significantly impairs, undermines or compromises the City's ability to provide basic municipal utilities or facilitate the operation of the utilities and communications.

*Curfew*: a prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the city except officials of any governmental unit and persons officially designated to duty with reference to said emergency.

Sec. 2-129. *Declaration of Emergency*. Whenever an emergency, as defined in subsection 2-128 of this section exists, the Mayor is authorized to declare a Local State of Emergency by means of a written *declaration* of the Mayor, under oath, and setting forth the facts which constitute the emergency, describing the nature of the emergency and declaring that a Local State of Emergency exists in accordance with the definitions set forth in this section. This declaration shall be filed with the municipal clerk as soon as practicable after issuance.

Sec. 2-130. *Orders Authorized*. After the declaration of a Local State of Emergency, the Mayor may also, in the interest of public safety and welfare, and to address the issues caused or threatened by the emergency, undertake any or all of the following actions by executive order during the state of emergency:

- 1) All actions reasonably necessary to respond to the emergency;
- 2) Approve previously appropriated expenditures of the city for the purpose of continuing the operations of the municipality;
- 3) In the event the Local State of Emergency extends beyond the current fiscal year, and a new budget has not been approved, the Mayor shall be authorized to approve new spending by the City during the existence of the Local State of Emergency;
- 4) Order the closing of all retail liquor stores, including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted;
- 5) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer;
- 6) Order a general curfew applicable to such geographical areas of the city or to the city as a whole, as deemed reasonable and advisable, and applicable

during such hours of the day or night as deemed necessary in the interest of the public safety and welfare;

- 7) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;
- 8) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever; or
- 9) Order any act consistent with executive orders adopted by the Governor of the State of Illinois to address the emergency.

Sec. 2-131. *Duration.* The declaration herein authorized shall be effective until the adjournment of the next regular or special meeting of the City Council, or a termination date set by the City Council by ordinance, unless sooner terminated by a proclamation of the Mayor, or the interim emergency successor, indicating that the emergency no longer exists, or by the City Council by majority vote. If public meetings are suspended during an emergency, three members of the City Council may request in writing that the City Clerk shall schedule a meeting or special meeting to consider whether the Mayoral declaration of emergency should be rescinded or modified.

Sec. 2-132. *Notice.* Upon issuing the declaration herein authorized, the municipal clerk shall notify the news media situated within the City, and shall cause at least four copies of the proclamation *declaring* the existence of the emergency and any curfew to be posted at the following places within the city: the city hall, the police station, the post office, in the area of any curfew and on the City's website.

Sec. 2-133. *Violations.* Any person violating the provisions of this section or executive orders issued pursuant hereto shall be guilty of an offense against the City and shall be punished as provided by Section 1-8, General Penalty, of the City code.

Sec. 2-134. *Effect on Other Ordinances.* Nothing contained in this section shall be construed to impair the powers contained in this Code, giving powers to the police and fire departments, but shall be construed together with existing ordinances now in effect for the safety and welfare of the citizens of the City.

**SECTION 2:** That 2-128 (a and b) "Emergency Line of Succession" and 2-129 "Compensation" of Article III Officers, Division 2 Mayor, of Chapter 2 of the City Code shall be renumbered to 2-135 and 2-136 respectively. Sections 2-136 – 2-140 shall remain reserved.

**SECTION 3:** If a court of competent jurisdiction sets aside any portion of this Ordinance as unconstitutional or unlawful, it shall not affect the validity of the remainder of the Ordinance.

**SECTION 4:** Any ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

**SECTION 5:** This Ordinance shall become effective upon passage, execution by the Mayor and publication as required by law.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Roll Call Vote:

Ayes:  
Nays:  
Absent:

Passed:  
Published:

**CITY OF WHEATON  
DECLARATION OF LOCAL STATE OF EMERGENCY  
MARCH 23, 2020**

State of Illinois  
County of DuPage  
City of Wheaton

Pursuant to the authority vested in the office of the Mayor by the Illinois Municipal Code Section 5/11-1-6, the Illinois Emergency Management Agency Act Section 330/5/11, and Chapter 2, Article III, Offices, Section 2; Mayor, Section 2-127, et seq. of the City Code, the undersigned Mayor of the City of Wheaton hereby declares that a Local State of Emergency exists as of this date, March 23, 2020, and shall continue until such time as provided in Chapter 2, Article III, Section 2-127 of the City Code. As Mayor, having been duly sworn, I hereby declare that the following recitations constitute the basis for this declaration.

In late 2019, a new and significant outbreak of Coronavirus Disease 2019 (COVID-19) emerged. COVID-19 is a novel severe acute respiratory illness that can spread among people through respiratory transmissions. Despite efforts to contain COVID-19, the World Health Organization and Centers for Disease Control indicate that it is expected to spread; and

As a result of the potential impact of the COVID-19 outbreak on the State of Illinois, Illinois Governor Pritzker declared all counties of the State of Illinois as a disaster area on March 9, 2020 and activated the State Emergency Operations Center; and

On March 11, 2020, the World Health Organization (WHO) characterized the COVID-19 outbreak as a public health emergency of international concern and declared a worldwide pandemic; and

On March 13, 2020, President Trump declared the COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia; and

Competent epidemiologists recommend that local authorities participate in strategies directed at reducing the potential impact of COVID-19; and

Based on the declared pandemic by the WHO and the declarations of public emergency by the federal government and the State of Illinois, I hereby find that it is necessary that the City of Wheaton undertake lawful, necessary and appropriate actions to protect the public's health in response to the COVID-19 outbreak.

During the existence of the Local State of Emergency, I shall execute such authority as provided under the Illinois Municipal Code, the Illinois Emergency Management Agency Act, and Chapter 2 Article III, Section 2 of the City Code and am hereby authorized to:

Take any and all actions that are necessary and appropriate to carry out the mission of the City and protect the health, safety, and wellbeing of all City employees and the community including, but not limited to, (a) the procurement of, and payment for, services, supplies, equipment, or material without regard to statutory procedures or formalities normally prescribed by law pertaining to City contracts or obligations (b) manage and direct City employees in a manner that effectively provides municipal services to resident and business owners in the community, and (c) undertake any additional actions authorized by: State statute, Chapter 2 , Article III, Section 2-127, et seq. of the City Code, and Governor Pritzker’s Executive Order 2020-07.

I, have signed this Declaration willingly, execute it as my free and voluntary act for the purposes therein expressed.

---

Philip J. Suess, Mayor  
City of Wheaton

ATTEST:

---

Michael G. Dzugan, City Manager

**ORDINANCE NO. O-2020-**

**AN ORDINANCE EXTENDING A DECLARATION OF LOCAL STATE OF EMERGENCY ENTERED INTO MARCH 23, 2020**

**WHEREAS**, the Mayor of the City of Wheaton, Philip J. Suess, declared a local state of emergency on March 23, 2020; and

**WHEREAS**, the declaration was entered by the Mayor in conformance with an amended Section 2-127 of the City Code adopted the same day before the declaration; and

**WHEREAS**, state statute does not preempt Wheaton's home rule authority to determine the length of the state of public emergency; and

**WHEREAS**, state statutes authorizing the declaration of a public emergency set forth 7-day rolling renewal dates of a mayoral emergency declaration; and

**WHEREAS**, the corporate authorities of the City of Wheaton have concluded that 7-day rolling renewal dates of the emergency declaration are inadequate, inefficient and contrary to the underlying basis of many emergencies and are particularly inadequate to address the issues caused by the COVID-19 virus; and

**WHEREAS**, pursuant to Section 6 of Governor's Executive Order 2020-7 (COVID-19 Executive Order No. 5) issued by Governor Pritzker on Monday, March 16, 2020, the provisions of the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., requiring or relating to in-person attendance by members of a public body are suspended throughout the duration of the Gubernatorial Disaster proclamation issued on March 9, 2020. Limits pertaining to remote participation set forth in the Open Meetings Act are not applicable during this time; and

**WHEREAS**, the corporate authorities of the City adopt the averments set forth in the Mayors Declaration of Local Emergency as legislative findings for purposes of this Ordinance; and

**WHEREAS**, this ordinance is adopted pursuant to the City of Wheaton's home rule authority.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule authority, as follows:

**SECTION 1:** The Mayoral declaration of a local state of emergency first effective on March 23, 2020, shall remain in effect without further action of the Wheaton City Council until April 30, 2020, unless otherwise rescinded before that date by the Mayor or a majority vote of a quorum of the Wheaton City Council. If Wheaton City Council meetings are suspended during the period from March 23, 2020, through April 30, 2020, any three members of the Council may request that a City Council meeting be held during the time period to consider

the issue of whether the emergency declaration should be repealed, rescinded or modified. In the latter circumstance, the City Clerk shall schedule the meeting within seven (7) days of the request following the notification requirements of the Illinois Open Meetings Act.

**SECTION 2:** The Mayor, or the Mayor’s designee if the Mayor is absent or incapacitated, is hereby authorized to take those actions authorized by state statute, by the Wheaton City Code and Executive Orders of the Governor of the state of Illinois, and as reasonably necessary to ensure that day-to-day operation of the City continues in an uninterrupted manner, including, but not limited to, payment of City bills for which appropriations have previously been approved by the City Council, payment of bills related to the Emergency, and extension of deadlines for payment of renewal fees for City-issued liquor licenses. The City Manager shall remain responsible for the day-to-day operation of the City as provided by state statute and the Wheaton City Code.

**SECTION 3:** In conjunction with the suspension of in-person attendance requirements during public meetings throughout the duration of the Gubernatorial Disaster Proclamation issued on March 9, 2020, and the Governor’s Executive Order 2020-7 (hereinafter “GEO 2020-07”) issued March 16, 2020, Section 6, the provisions of the Open Meetings Act suspended or qualified by GEO 2020-07 and each subsection thereof setting limitations on participation in City Council meetings by telephonic, video, or other available means, are hereby suspended for the same duration of time. Methods of participation during public meetings shall be determined by the Mayor with the assistance of the City Manager, the City Clerk, and appropriate City staff and shall be made known to City Council members and the public. Further, to the extent that such meetings are determined to be necessary, as determined by the City Manager, in-person attendance requirements for meetings of members of Board and Commissions of the City shall not be required and such meetings may be held in whole or in part by telephone, video, or other available means. Changes in meeting attendance, and methods of participation by the public shall be publicized on the City’s website.

**SECTION 4:** If a court of competent jurisdiction sets aside any portion of this Ordinance as unconstitutional or unlawful, it shall not affect the validity of the remainder of the Ordinance.

**SECTION 5:** Any ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

**SECTION 6:** This Ordinance shall become effective upon passage, execution by the Mayor and publication as required by law.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Roll Call Vote:

Ayes:  
Nays:  
Absent:

Passed:  
Published: