# ORDINANCE NO. F-1623

## AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 2-40 "VOTE REQUIRED, DISQUALIFICATION; VOTING PROCEDURES" OF ARTICLE II "CITY COUNCIL," DIVISION 1 "GENERALLY;" SECTION 2-70 "TAKING, ENTERING OF VOTES; EXPLANATION OF VOTES NOT PERMITTED" OF ARTICLE II "CITY COUNCIL," DIVISION 2 "RULES OF PROCEDURE;" AND SECTION 2-126 "POWERS AND DUTIES GENERALLY" OF ARTICLE III "OFFICERS," OF CHAPTER 2 "ADMINISTRATION" OF THE WHEATON CITY CODE

**WHEREAS,** the Mayor of the City of Wheaton pursuant to Section 2-40 of Chapter 2 of the Wheaton City Code, has historically voted on all matters brought before the City Council; and

**WHEREAS,** some sections of the Wheaton City Code and Wheaton Zoning Ordinance specify the voting entity as the "City Council" only; and

**WHEREAS,** the Corporate Authorities of the City wish to clarify and reaffirm comprehensively that the Mayor of the City of Wheaton shall vote on all matters brought before the City Council and that the Mayor's vote will be counted despite the fact that some sections of Wheaton's Ordinances may refer to the voting entity as the "City Council" only; and

**WHEREAS,** Section 2-70 of Chapter 2 of the Wheaton City Code does not provide for the calling of the Mayor's vote by the City Clerk in the procedure for roll call votes; and

**WHEREAS,** the City Clerk, when performing the roll call vote pursuant to Section 2-70, has historically called for the Mayor's vote in the order that the Mayor sits on the dais to the left or right of the councilmember first called to vote; and

**WHEREAS,** Section 2-70 should be amended to specifically affirm the historic practice of calling the Mayor's vote based on the relationship of the Mayor's seat on the dais to the councilperson first called to vote; and

**WHEREAS,** Section 2-126 of Chapter 2 of the Wheaton City Code's, description of the powers and duties of the Mayor is archaic and should be amended;

**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:** That Subsection (a) of Section 2-40 "Vote Required, Disqualification; Voting Procedures," of Article II "City Council," Division 1 "Generally," of Chapter 2 "Administration," of the Wheaton City Code is hereby repealed and rescinded in its entirety and replaced with a new Subsection (a) of Section 2-40 "Vote Required, Disqualification; Voting Procedures" of Article II "City Council," Division 1 "Generally," of Chapter 2 "Administration," of the Wheaton City Code which shall provide as follows:

(a): The mayor and each member of the city council shall have the right to vote and shall vote on all matters coming before the city council. A vote is defined as a "yes" or "no." The Mayor's vote shall count on all matters related to the Wheaton City Code, Wheaton Zoning Ordinance, City Subdivision Regulations, or any other ordinance, resolution or motion coming before the city council, regardless of whether those ordinances or regulations refer to a vote as being made by "the city council," "the corporate authorities," or where the ordinance or regulation is silent on a voting entity.

**SECTION 2:** That Section 2-70 "Taking, Entering of Votes; Explanation of Votes Not Permitted," of Division 2 "Rules of Procedure," of Article II "City Council," of Chapter 2 "Administration" of the Wheaton City Code is hereby repealed and rescinded in its entirety and replaced with a new Section 2-70 "Taking, Entering of Votes; Explanation of Votes Not Permitted," of Division 2 "Rules of Procedure," of Article II "City Council," of Chapter 2 "Administration" of the Wheaton City Code which shall provide as follows:

Section 2-70: The city clerk shall call the roll in the following order: The councilmember who moves for the adoption of any ordinance, resolution or motion shall be the first councilmember called upon to vote on that ordinance, resolution or motion. Votes of the Mayor and subsequent councilmembers shall then be called in order of the mayor or councilmembers' seating arrangements proceeding to the immediate left of the councilmember called upon to vote first. When the clerk has commenced to call the roll for the taking of a vote by "yes" or "no" all debate on the question before the council shall be deemed concluded and during the taking of the vote no member shall be permitted to explain his vote but shall respond to the calling of his name by the clerk by answering "yes" or "no."

**SECTION 3:** That Section 2-126 "Powers and Duties Generally" of Division 2 "Mayor" of Article III "Officers," of Chapter 2 "Administration" of the Wheaton City Code is hereby repealed and rescinded in its entirety and replaced with a new Section 2-126 "Powers and Duties Generally," Division 2 "Mayor" of Article III "Officers" of Chapter 2 "Administration" of the Wheaton City Code which shall provide as follows:
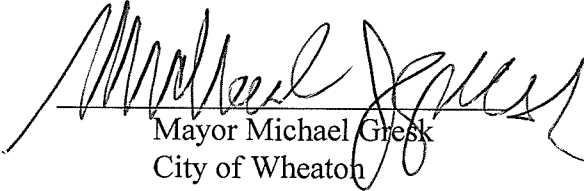
Section 2-126: The Mayor of the City of Wheaton shall be its chief elected officer and shall have those duties and powers as described by statute and the City Code. Where the powers and duties of the Mayor, as set forth in this Section, are inconsistent with the powers and

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duties of mayors as set forth in State statute, this Section shall control except where there is a pre-emption of home rule authority.

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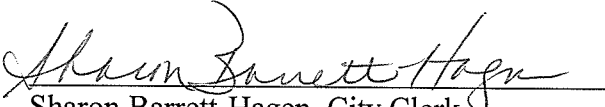
**SECTION 5:** Any ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

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

Mayor Michael Gresk
City of Wheaton

ATTEST:

Sharon Barrett-Hagen, City Clerk
City of Wheaton

|  | Roll Call Vote: |
|---|---|
| Ayes: | Councilman Mouhelis |
|  | Councilman Rutledge |
|  | Mayor Gresk |
|  | Councilwoman Pacino Sanguinetti |
|  | Councilman Scalzo |
|  | Councilman Suess |
|  | Councilwoman Ives |
| Nays: | None |
| Absent: | None |

Passed:        February 6, 2012
Published:    February 7, 2012

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