

**ORDINANCE NO. O-2020-12**

**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**, this 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.

  
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Philip J. Suess  
Mayor

ATTEST:

  
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Aaron Bennett Hagan

City Clerk

**Roll Call Vote:**

Ayes:

Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins

Passed: March 23, 2020

Nays:

None

Published: March 24, 2020

Absent:

None

Motion Carried Unanimously