

**AN ORDINANCE OF THE CITY OF WHEATON RATIFYING A MAYORAL EXECUTIVE ORDER DECLARING A STATE OF
EMERGENCY AND WAIVING CERTAIN REQUIREMENTS OF CITY OF WHEATON ORDINANCE O-2019-21 "AN
ORDINANCE AUTHORIZING A SPECIAL USE PERMIT TO ALLOW THE DEMOLITION OF THE EXISTING BANDSHELL,
CONCESSION/RESTROOM FACILITIES AND TENNIS COURT AT MEMORIAL PARK, THE CONSTRUCTION AND USE
OF A NEW BANDSHELL WITH CONCESSIONS AND RESTROOM FACILITIES AND AN INCREASE IN PARK DISTRICT
ACTIVITIES FOR THE PROPERTY COMMONLY KNOWN AS MEMORIAL PARK, 208 W. UNION AVENUE**

WHEREAS, the Mayor of the City of Wheaton declared several local states of emergency based upon the COVID-19 pandemic; and

WHEREAS, the declarations were entered by the Mayor in conformance with Illinois Municipal Code Section 5/11-1-6, the Illinois Emergency Management Agency Act Section 330/5/11, and Chapter 2, Article III, Section 2-127 of the Wheaton City Code; and

WHEREAS, upon declaring a local state of emergency the Mayor is provided the extraordinary power and authority to exercise by executive order all such powers of the corporate authorities and other officers of the city as may be reasonably necessary or appropriate to respond to the emergency; and

WHEREAS, the Mayor has issued executive orders some of which the City Council desires to ratify and adopt as acts on behalf of the Corporate Authorities; and

WHEREAS, executive orders not ratified remain in full force and effect unless otherwise rescinded by the Mayor or a majority vote of a quorum of the City Council or where they have expired as a matter of law.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton that they hereby ratify the following executive order as necessary and appropriate so as to be fully authorized as if it had been adopted by the City Council contemporaneous with the issuance by the Mayor of the City of Wheaton:

1. Executive Order 2021-01: "Executive Order of the Mayor of the City of Wheaton Declaring a State of Emergency and Waiving Certain Requirements of City of Wheaton Ordinance O-2019-21 "An Ordinance Authorizing a Special Use Permit to Allow the Demolition of the Existing Bandshell, Concession/Restroom Facilities and Tennis Court at Memorial Park, the Construction and Use of a New Bandshell With Concessions and Restroom Facilities and an Increase In Park District Activities for the Property Commonly Known as Memorial Park, 208 W. Union Avenue" based on the continuing COVID-19 pandemic and its effect on the workforce, incorporated herein and fully set forth as Exhibit A.
2. That upon recession or expiration of the foregoing executive order, the underlying ordinances or policies affected by the executive order shall return to and remain in full force and effect as originally constituted.
3. That if any portion of this Ordinance is deemed invalid by a court of competent jurisdiction it shall not affect the remaining portions of the Ordinance.
4. This ordinance shall become effective upon its passage, execution and publication as required by law.



Philip J. Bress
Mayor

Attest:


Shannen Bennett
City Clerk

Roll Call Vote:

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

Nays: None

Absent: None

Motion Carried Unanimously

Passed: April 5, 2021

Published: April 6, 2021

2021-01

**EXECUTIVE ORDER OF THE MAYOR OF THE CITY OF WHEATON DECLARING
A STATE OF EMERGENCY AND WAIVING CERTAIN REQUIREMENTS OF CITY
OF WHEATON ORDINANCE O-2019-21 "AN ORDINANCE AUTHORIZING A
SPECIAL USE PERMIT TO ALLOW THE DEMOLITION OF THE EXISTING
BANDSHELL, CONCESSION/RESTROOM FACILITIES AND TENNIS COURT AT
MEMORIAL PARK, THE CONSTRUCTION AND USE OF A NEW BANDSHELL
WITH CONCESSIONS AND RESTROOM FACILITIES AND AN INCREASE IN PARK
DISTRICT ACTIVITIES FOR THE PROPERTY COMMONLY KNOWN AS
MEMORIAL PARK, 208 W. UNION AVENUE**

WHEREAS, Section 2-127 "Emergency Powers and Duties" of Chapter 2 "Administration" of the Wheaton City Code grants authorization to the Mayor of the City to enter executive orders "upon the declaration of a local state of emergency"; and

WHEREAS, the authority to declare a state of emergency to issue local executive orders under Section 2-127 is exclusive to the Mayor; and

WHEREAS, Illinois is currently under a phased reopening plan which concludes that the COVID-19 pandemic remains active and constitutes a continuing threat to the health and safety of the citizens of Illinois; and

WHEREAS, medical progress has been made with vaccines and therapeutic modalities to mollify and treat COVID-19 which provide promise and hope that prevention and treatment strategies are moving towards Phase 5 status under the States phasing strategy; and

WHEREAS, medical experts caution that the progress being made in prevention and therapeutic treatment of COVID-19 should not lead to the premature withdrawal of COVID phasing strategy limitations and the issues resulting from new variants of COVID; and

WHEREAS, Section 2-127 of the Wheaton City Code contains the language "but not limited to" to provide flexibility in times of emergency, and I have concluded based on the foregoing recitals and other best practices information that there continues to be a state of emergency in the City of Wheaton in that the disease known as COVID-19 continues to exist and represents a real and significant natural disaster resulting in the injury and threat of injury to persons in Wheaton and that extraordinary measures must still be taken but modified consistent with Phase 4 strategies to promote protection of the public health, safety and welfare from such conditions while also promoting the public health benefits of educational and community opportunities; and

WHEREAS, Section 4 D of Ordinance O-2019-21 limits the use of Memorial Park for all events or activities utilizing amplified sound equipment to no more than thirty (30) days in any calendar year and no more than four (4) days in any calendar week; and

WHEREAS, the Wheaton Park District and CUSD 200 have indicated their intent to enter into a License Agreement with Community Unit School District 200 ("CUSD 200") to allow

Wheaton Warrenville South High School and Wheaton North High School certain choral and band rehearsals and performances on certain dates in April and May 2021 as set forth in Exhibit A to this order (sometimes the Performances); and

WHEREAS, the Wheaton Park District and CUSD 200 have contacted the City and requested that the District 200 choral and band rehearsals and performances not be subject to the limitations set forth in Section 4D of Ordinance O-2019-21; and

WHEREAS, the request by the Wheaton Park District is reasonable due to the existence of Phase 4 limitations on the size of indoor gatherings imposed by Governor Pritzker due to COVID-19; and

WHEREAS, Memorial Park presents the opportunity to use an outdoor venue which would allow greater flexibility for social distancing enabling the Performances to proceed without cancellation; and

WHEREAS, this emergency declaration and corresponding order shall be effective for seven (7) days only, unless the Wheaton City Council adopts an ordinance extending the zoning relief set forth herein.

NOW, THEREFORE, BASED ON THE FOREGOING RECITALS, I, Philip J. Suess, as Mayor of the City of Wheaton, hereby order and declare instanter, pursuant to the powers granted by law and this declaration of emergency, but only for such purpose as stated in this order and declaration of emergency, as follows:

SECTION 1. The foregoing recitals are incorporated herein as if fully set forth as substantive provisions.

SECTION 2. Pursuant to my authority set forth in Section 2-127 "Emergency Powers and Duties" of Chapter 2 "Administration" of the Wheaton City Code, I hereby declare a local state of emergency based upon the natural disaster of the COVID-19 pandemic and it being an efficient cause of serious illness, and based upon said declaration and consistent with Section 2-127 (b) (3), I hereby issue an order waiving the limitation on the number of amplified sound events in Memorial Park to allow Community Unit School District 200 high school choral and band rehearsals and performances during the months of April and May 2021 so long as they are consistent with Phasing restrictions recommended by the Illinois Governor's office in effect at the time of the event. A list of the Performances is attached hereto as Exhibit 1.

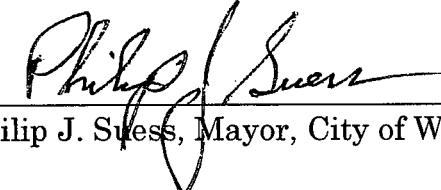
SECTION 3. That the City Manager of the City of Wheaton or his designees are hereby authorized to undertake any and all administrative acts reasonably necessary to effectuate the purpose of this order for the next seven (7) days.

SECTION 4. Should any provision of this order be declared invalid by a Court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the order.

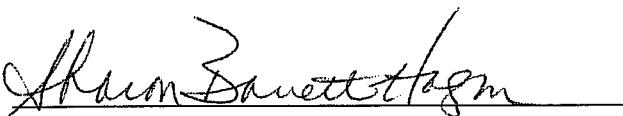
SECTION 5. This order shall become effective immediately and be in effect for seven (7) days, upon its signing and attestation by the City Clerk.

SECTION 6. That this order shall be presented to the Wheaton City Council on April 5, 2021, for its consideration of the extension of its provisions.

SO ORDERED this 30th day of March, 2021.


Philip J. Suess, Mayor, City of Wheaton

ATTEST:


Aaron Bennett
City Clerk Date: 3/30/21

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EXHIBIT A

Dates of Times for Access and Use of Licensed Premises

2021 Performance & Practice Schedule

Date	Time	Specific Performance Use
Friday, April 23	3 p.m. to 8 p.m.	WNHS Show Choir- Dress Rehearsal
Saturday, April 24	12 p.m. to 9 p.m.	WNHS Show Choir- Performance
Thursday, April 29	3 p.m. to 8 p.m.	WWSHS Show Choir- Dress Rehearsal
Friday, April 30	3 p.m. to 8 p.m.	WWSHS Show Choir- Dress Rehearsal
Saturday, May 1	10 a.m. to 9 p.m.	WWSHS Show Choir- Performances (2)
Wednesday, May 5	2:30 p.m. to 9 p.m.	WWSHS Musical – Dress Rehearsal
Thursday, May 6	2:30 p.m. to 9 p.m.	WWSHS Musical – Dress Rehearsal
Friday, May 7	4:30 p.m. to 9 p.m.	WWSHS Musical – Performance
Saturday, May 8	12 p.m. to 9 p.m.	WWSHS Musical – Performances (2)
Sunday, May 9	12 p.m. to 5 p.m.	<i>Rain Date for May 7 or 8 performances</i>
Wednesday, May 12	3 p.m. to 8 p.m.	WNHS Musical- Dress Rehearsal
Thursday, May 13	3 p.m. to 8 p.m.	WNHS Musical- Dress Rehearsal
Friday, May 14	3 p.m. to 9 p.m.	WNHS Musical- Performance
Saturday, May 15	10 a.m. to 9 p.m.	WNHS Musical- Performances (2)
Sunday, May 16	11 a.m. to 7 p.m.	WNHS Talent Show (1p.m.) & Jazz Band (5p.m.)
Thursday, May 20	3 p.m. to 9 p.m.	<i>Rain Date for May 14 or 15 performances</i>
Friday, May 21	3 p.m. to 9 p.m.	<i>Rain Date for May 14 or 15 performances</i>

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